

DHAP to HCV Conversion Common Programmatic Questions

The following Frequently Asked Questions (FAQs) pertain specifically to the \$85 million recently appropriated by Congress under the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110-329) for rental voucher housing assistance payments and administrative fees to provide vouchers for DHAP families whose rental assistance would otherwise end on March 1, 2009. To be eligible for the voucher, the family must meet all eligibility requirements of the Housing Choice Voucher (HCV) program, including the income requirements at 24 CFR 982.201(b)(1).

Program Eligibility

1: Who is eligible for the HCV assistance under this initial round of funding?

Answer: To be eligible for the HCV assistance under the initial round of funding provided by HUD for Priority 1 families, the family:

- (1) Must be a current participant in the DHAP;
- (2) Must be eligible for HCV assistance; and
- (3) Must be an elderly family or a family that includes a person with disabilities. ‘Elderly family’ and ‘person with disabilities’ is defined in 24 CFR 5.403.

2: May the PHA also make these vouchers available to elderly and families that include a person with disabilities that are assisted under the Disaster Voucher Program (DVP)?

Answer: No. This special allocation of vouchers is limited to DHAP participants only. Families on other temporary disaster housing assistance programs administered by the PHA (e.g., DVP, DHAP-Ike) are not eligible for these vouchers.

3: In determining if a family is income eligible for a voucher, are families participating in DHAP considered to be “continuously assisted”, in which case the PHA would use the low-income limits as opposed to the very low-income limits?

Answer: No. The “continuously assisted” category under 24 CFR 982.201(b) refers to a low-income family that is continuously assisted under the United States Housing Act of 1937. DHAP is not a 1937 Housing Act program. That eligibility category does not apply to families under the DHAP to HCV conversion process. The PHA uses the very low-income limits.

4: Is a former DHAP participant eligible for the HCV assistance in cases where the family no longer receives DHAP assistance because the incremental rent transition eliminated the monthly rent subsidy?

Answer: No. The family is not eligible if the family would no longer qualify for a DHAP rent subsidy payment for February 2009 because under the incremental rent transition the family is responsible for the full amount of the rent. The statutory language

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concerning the appropriation provides that the assistance is available to families “whose rental assistance would otherwise end on March 1, 2009.” Families whose rental assistance under DHAP ends prior to that time are not eligible for this HCV assistance.

5: If the PHA determines the family is not eligible for the HCV assistance, may the family appeal the decision?

Answer: Yes. In accordance with the HCV regulations at 24 CFR 982.554, the PHA must give the family prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the PHA decision. The notice must also state that the family may request an informal review of the decision and describe how to obtain the informal review.

6: Does a family already have to be in subsidized housing (i.e., must the family be under an active DRSC) to be eligible for the HCV assistance?

Answer: The family must be an actively participating in the DHAP to be eligible for the HCV assistance. This would include cases where the family is not presently under a DRSC at the point in time the PHA is making the eligibility determination (e.g., the family’s lease expired and the owner was unwilling to renew but the family is actively looking for a new unit with continued DHAP assistance.) If, on the other hand, the family’s participation in DHAP has been terminated for any reason (e.g., the family has assumed responsibility for the full amount of the rent as a result of the incremental rent transition; the family has voluntarily left the program; the family has been terminated by the PHA from DHAP for violating the family obligations), the family is not eligible for the HCV assistance.

7: If a family is determined ineligible for the HCV assistance because the family is over - income, is the family eligible for assistance if they subsequently have a decrease in income?

Answer: If the family is not income-eligible for HCV assistance before February 28, 2009, the family is not eligible to receive one of vouchers under this special allocation. If the family subsequently has a decrease in income and wishes to re-apply for HCV assistance at that time, the family would be a regular applicant/admission, and all normal HCV requirements would apply (e.g., the waiting list, the PHA admissions preferences, etc.).

HCV Program Rules and Requirements

8: Do regular voucher program rules apply to the vouchers provided to DHAP families under this special appropriation?

Answer: Yes. These regular vouchers must be administered in accordance with housing choice voucher (HCV) regulations and requirements.

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9: My PHA HCV waiting list is closed. Do I have to open the waiting list in order to assist these DHAP families?

Answer: No. DHAP families that are admitted to the voucher program through this allocation of vouchers are special admission families under 24 CFR 982.203. The PHA does not place the family on the waiting list and admits the family to the voucher program without considering the waiting list. The PHA must maintain records showing that the family was admitted with HUD-targeted assistance. Since the family is not admitted from the waiting list, the income-targeting requirements at 24 CFR 982.201(b)(2) does not apply to these admissions.

10: Is the owner required to participate in the HVC program if the DHAP family wishes to lease in-place?

Answer: No. The HCV program is a voluntary program. The owner is not required to participate in the HCV program.

11: The lease between the DHAP family and the owner does not end until July 31, 2009, and the family wishes to move to another unit to receive HCV assistance. The owner says he is not willing to mutually terminate the lease early because of the loss of rental income. Is there any type of incentive payment available to assist in getting the owner to agree to mutually terminate the lease?

Answer: No. There is no incentive payment available under the HCV program for the owner to agree to mutually terminate the lease to facilitate the family's move.

12: Do the family and the owner have to enter into a new lease if the family wishes to lease in-place with the voucher?

Answer: Yes. Under the HCV program, the lease and the housing assistance payments (HAP) contract must have the same effective date. The owner and the family must enter into a new lease for the family to transition to the HCV program.

13: Is the unit subject to rent reasonableness if the owner is not increasing the rent from the rent to owner charged under the DHAP?

Answer: Yes. The unit is subject to rent reasonableness. In accordance with 24 CFR 982.305(a), the PHA may not approve the HCV assisted tenancy or execute a HAP contract until the PHA has determined that the rent to owner is reasonable.

14: Is the unit subject to all HQS requirements if the family wishes to lease in-place?

Answer: Yes. The unit must pass the PHA HQS inspection in order to be eligible for HCV assistance.

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15: The DHAP family wishes to lease in-place. What happens if the family's share of the rent under the HCV program would initially exceed 40 percent of the family's adjusted monthly income?

Answer: If the gross rent of the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly-adjusted income in the HCV program when the family is initially assisted in any unit. Unless the owner is willing to lower the rent accordingly, the PHA may not approve the request for tenancy and the family must lease another unit in order to receive HCV assistance.

16: The monthly DHAP subsidy that our PHA is currently paying is based on the rental assistance amount FEMA paid immediately prior to the family's transition to DHAP and is higher than our applicable payment standard. Do we continue to use the higher amount when determining the HAP under the HCV program?

Answer: The PHA uses the lower of the applicable PHA HCV payment standard or the gross rent of the unit to determine the monthly HCV HAP amount. DHAP rent subsidy rules are not applicable to the HCV program.

17: What does the PHA do if the family or the owner won't agree to transition to the HCV program until March 1, 2009, when the DHAP ends? Can we require the family and/or owner to transition to the HCV program before March 1, 2009, even if they prefer to wait?

Answer: The PHA may enter into a HCV HAP contract on behalf of an eligible family anytime after the PHA receives voucher funding for the priority category under which the family qualifies for HCV assistance, but may not require the family or owner to transition to HCV before March 1, 2009.

18: The DHAP family is renting a unit that is owned by the mother of the head-of-household. May the PHA approve the unit for HCV assistance even though the family would be renting from a relative?

Answer. The prohibition on renting from relatives at 24 CFR 982.306(d) is applicable to the HCV assistance. The PHA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family unless the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

19: Does the PHA base the bedroom size of the conversion voucher on the family's actual size and composition or the bedroom size approved under the DHAP requirements?

Answer: The PHA determines the bedroom size based on its subsidy standards in accordance with HCV requirements, not DHAP requirements. For example, if the family has added family members after their displacement from their home by the disaster (and

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as a result these family members were not taken into consideration for purposes of the subsidy calculation under DHAP), the PHA would take those additional family members into consideration, provided the inclusion of those additional family members meets the program requirements for a family (see 24 CFR 982.201(c)).

20: If the family fails the criminal background check for admission to the HCV program, can they remain on DHAP for the remainder of the DHAP?

Answer: Yes. A family's ineligibility for the HCV program is not in and of itself grounds for termination from DHAP. However, if the PHA determines in the course of the HCV eligibility determination that the family has violated the family obligations of the DHAP, the PHA may terminate the family's DHAP assistance in accordance with the requirements of that program (e.g., the family must be provided with the opportunity for an informal hearing). For example, if the PHA discovered during the course of the HCV eligibility determination that the family had engaged in drug-related criminal activity or violent criminal activity while a participant in the DHAP, the PHA would have grounds to terminate the family's participation in the DHAP as well as denying admission to the HCV program.

21: The PHA is in the process of terminating a family from the DHAP for failing to comply with the family obligations. Is the family still eligible for consideration for the HCV assistance?

Answer: If the PHA terminates the family from the DHAP for failing to comply with the DHAP family obligations prior to the DHAP sunset date of March 1, 2009, the family is not eligible for the HCV assistance. Note that the PHA must provide the family with the opportunity for an informal hearing before terminating the family from the DHAP.

22: May the PHA terminate the family's HCV assistance if the PHA subsequently discovers the family violated DHAP family obligations during their participation in the DHAP?

Answer: The PHA may only terminate HCV assistance if it has grounds to do so under the HCV regulations. The PHA may not terminate HCV assistance if the sole reason for the termination is the family's failure to comply with DHAP family obligations during the family's participation in that program.

23: If the PHA wishes to decline the HCV allocation and absorb the DHAP families using vouchers from their existing HCV program, are these families still considered "special admissions" under 982.203?

Answer: No, the family is not a special admission in such a case. The family would be a regular admission and as such must be selected from the PHA's waiting list in accordance with admissions policies in the PHA administrative plan.

24: For families for which my PHA is currently administering DHAP assistance outside of my HCV jurisdiction, is HUD inviting another PHA to administer the HCV assistance?

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Answer: In general, the answer is no. The invitation letters were sent to two groups of PHAs, as follows:

- **“DHAP” PHAs** – These PHAs are currently administering DHAP for families who may or may not reside in their jurisdiction. These PHAs should proceed to conduct family outreach efforts and eligibility determinations for the families they are assisting in the DHAP, regardless of the family’s location. For those eligible families not residing in the DHAP PHA’s jurisdiction, the DHAP PHA should inquire where the family wishes to receive the voucher assistance. The DHAP PHA then contacts the PHA with jurisdiction over the area in which the family wishes to reside and the family is assisted under the portability procedures of the voucher program.
- **“Non-DHAP” PHAs** – Two PHAs administered large DHAP programs that specifically fell outside of their HCV jurisdictions. In those two cases only, the non-DHAP PHAs with HCV jurisdictions over the areas in which the families are residing were invited to administer the voucher assistance. If the non-DHAP PHA agrees to administer the special allocation of vouchers, the non-DHAP PHA conducts family outreach efforts and HCV eligibility determinations for the DHAP families assigned to that non-DHAP PHA. If the non-DHAP PHA chooses to decline the invitation, HUD will make the HCV allocation available to another PHA. However, if the former DHAP family wishes to continue to reside in their current location, the portability requirements of the HCV program are applicable to the family’s voucher. This means the non-DHAP PHA that declined the voucher allocation will still be responsible as the receiving PHA to administer HCV assistance on behalf of the family in their jurisdiction. The non-DHAP PHA should bear in mind the additional time, cost, and administrative burden of the portability process when deciding if to accept the HCV allocation.

25: Can a PHA choose to administer some instead of all the vouchers that are offered?

Answer: No, the PHA must agree to administer all of the vouchers offered to the PHA under the special allocation.

26: What responsibilities does a PHA have for coordinating with another PHA that is administering the DHAP HCV for a family outside of their jurisdiction?

Answer: The PHA needs to work with the DHAP HCV PHA to coordinate the timing of the termination of the DRSC to ensure there is no duplication of payment and to minimize the risk of any disruption in the flow of assistance on behalf of the family. In some cases the DHAP PHA may be able to assist the HCV PHA in family and the owner outreach efforts and its case manager may be able to help explain the DHAP to HCV transition to the family.

27: Will HUD consider the inclusion of those HCVs being used for DVP as permanent HCVs as well for this special funding allocation?

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Answer: No, DVP assistance is not permanent voucher assistance and is not part of this special funding allocation.

28: May a PHA deny a DHAP family HCV assistance due to the family's actions as a previous participant in the HCV program?

Answer: The PHA may deny admission to the family only if the PHA has grounds to do so under 24 CFR 982.552. If the PHA has specific grounds to deny admission under 24 CFR 982.552 because of the family's previous participation in the HCV program, the PHA may deny admission to the family. In such a case, the family must be given the opportunity for an informal review in accordance with 24 CFR 982.554.

29: My PHA has agreed to administer the DHAP to HCV assistance but is concerned about the lack of available housing stock in our community. Will these new HCVs count against the PHA leasing rate under SEMAP?

Answer: The SEMAP indicator for leasing excludes units associated with funding increments obligated during the last PHA fiscal year from the denominator used to calculate the leasing rate. This means PHAs will get credit for leasing these vouchers immediately but are not penalized if the vouchers are not utilized during the PHA fiscal year. (See 24 CFR 985.3(n).)

30: When should PHAs begin to contact DHAP-to-HCV families? How much lead-time will HUD give PHAs allowing them to begin issuing their new HCVs?

Answer: The PHA may begin contacting DHAP-to-HCV families once the PHA submits the form HUD 52515. The PHA may not issue HCVs until the PHA has actually received funding for the family's priority category. It is anticipated that Priority 1 funding will be available effective January 1, 2009

31: Does case management extend past the March 09 cut off of DHAP?

Answer: No, the PHA's DHAP case management responsibilities to the family end when DHAP ends.

Allocation of HCVs, Funding, and Annual Contributions Contract

32: Are "Priority 1 DHAP HCV Families" the same as Phase 1 DHAP families?

Answer: "Priority 1 DHAP HCV Families" refers to elderly families or families that include a person with disabilities. Priority 1 families include DHAP Phase 1, Phase 2, and Phase 3 families.

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33: Will the HCVs awarded in this program to a PHA increase the PHA's ACC or is the funding temporary and when the participant goes off the program is the HCV lost?

Answer: The HCV is a regular HCV. It increases the funding/baseline of the PHA HCV program and is renewed under the renewal HCV process. If a DHAP family is assisted by the HCV, when they leave the HCV program, the HCV will become available for reissuance to a family on the PHA waiting list.

34: May a PHA make initial HCV December payments PRIOR to conducting an HQS Inspection? An initial Participant Briefing?

Answer: No, the PHA may not make an HCV payment for any period of time prior to the date the unit has passed the HCV HQS inspection and the effective date of the HAP contract.

35: Will HUD or the PHA help the family with any relocation expenses if the DHAP family has to move to another unit to receive HCV assistance?

Answer: No relocation assistance is provided under the HCV program.