



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 2011-32 (HA)

Issued: 6/14/11

Expires: Effective until amended,
superseded, or rescinded

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

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

1. Purpose The purpose of this notice is 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 will address initial issuance, re-issuance and maintenance of these NED HCVs, tracking them in the Public and Indian Housing Information Center (PIC) and the Voucher Management System (VMS) and issues related to reasonable accommodation. The Family Unification Program (FUP) and HUD-Veterans Affairs Supportive Housing (VASH) programs will be addressed in section 5.f. only as they relate to shortfalls in HCV funding.

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, issues regarding the issuance and tracking of these special purpose vouchers have 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 upon turnover, all HCVs for NED families received pursuant to appropriation Acts for fiscal years 1997 through 2002, or any other subsequent appropriations, remain with NED families to the maximum extent possible.

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 was 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’s assumption is that PHAs will be responsible for assisting the number of NED HCVs awarded since 1997. The Financial Management Center (FMC) will notify affected PHAs of the total number of NED HCVs that have been awarded to the PHA since 1997. A PHA that believes it is not practicable to assist NED families during any period of time following the turnover of NED HCVs must contact Phyllis Smelkinson at Phyllis.Smelkinson@hud.gov or Susannah Still at Susannah.W.Still@hud.gov in the Office of Housing Voucher Program Management and Operations Division if it wishes to contest the established baseline. 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.

b. Reestablishing NED HCVs. To expedite the process of identifying NED HCVs, and ensuring that the minimum number of targeted families remain assisted, HUD has determined that PHAs may code the vouchers of current participants that meet the definition of a NED family as a NED voucher. This must be accomplished no later than one year from the date of this notice and can be done at the time of the family’s next re-examination. 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 5g and 5h of this notice on tracking these NED HCVs. With this expedited process available,

the Department expects a leasing rate of NED vouchers of 95 percent within one year of the issuance date of this notice

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 PHAs 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 families, HUD-Veterans Affairs Supportive Housing (VASH) families, and Family Unification Program (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, 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. Effective with this Notice, **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). Five-Year Mainstream vouchers will still be coded as MS5. 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. 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. All coding for participant families must be completed no later than at the family's next reexamination. The PHA should not code more families than the number of vouchers awarded for NEDs that will be provided to the PHA by the FMC noted in section 5.a.

h. VMS Reporting. All NED families (which include those previously reported

under the One-Year Mainstream category) will be reported under the NED column including Category 2 families described above. **Five-Year Mainstream vouchers will still be reported separately.** Until the VMS form is updated, please ignore the years 2008 and 2009 that appear in the NED column as the number of vouchers in the NED column will no longer be limited to those funded under 2008 and 2009 appropriations. As with PIC reporting, do not report more NED families than were awarded to the PHA. 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 that xyz NED units and HAP could also be applied to the Port Vouchers Paid category.

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

6. 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 disabled person 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 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-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 disabled person. 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 disabled person 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 disabled person 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 disabled person 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 the disabled 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 disabled person. However, a PHA may not provide a preference or set aside for a specific disability. 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. While other regulations permit the leasing of a rental unit from certain relatives when needed as a reasonable accommodation for a person's disability, there is no exception provided under the shared housing regulations.

h. Earned Income Disallowance. When determining the annual income of a participant family that includes persons with disabilities under the HCV program, the 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.

7. 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.

8. 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 following active information collections contained in this notice have been approved under the PRA - OMB Control Numbers 2577-0169 and 2577-0083.

/s/

Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing