



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

---

**Special Attention:**

Housing Choice Voucher Program  
Administrators; Public Housing  
Field Office Directors

**NOTICE PIH 2012-40 (HA)**

Issued: September 28, 2012

Expires: Effective until amended, superseded,  
or rescinded

Cross References:

24 CFR § 982.508 and § 982.305(a)(5), PIH  
Notice 2000-41

---

**Subject: Assisted Living Units in the Housing Choice Voucher (HCV) Program**

**1. Applicability.** This notice applies to all public housing agencies (PHA) that administer the HCV program for families that live in, or wish to live in, assisted living facilities. In accordance with the definition under Section 232(b) of the National Housing Act (12 USC 1715w(b)), an assisted living facility is a public facility, proprietary facility, or facility of a private nonprofit corporation that:

(1) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

(2) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

(3) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility.

Assisted living facilities may be referred to as residential care facilities, adult care facilities, congregate care facilities or group homes as long as they meet the requirements noted above. Assisting living facilities are designed for residents who have the physical ability to live independently but need assistance with some activities of daily living such as personal care, transportation, meals, laundry, medication monitoring, security and housekeeping. A person residing in an assisted living unit must not require continual medical or nursing care.

**2. Purpose.** This notice describes HUD's implementation of Section 302 of the Section 202 Supportive Housing for the Elderly Act of 2010 (Public Law 111-372). Section 302, *Monthly Assistance Payment under Rental Assistance*, amends section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) to allow a PHA to require a family to pay more than 40 percent of its monthly adjusted income for a unit in an assisted living facility if the amount or percentage is reasonable given the services and amenities provided by the assisted living

facility and as the Secretary deems appropriate.

**3. Implementation.** A PHA may submit a request for a waiver of 24 CFR § 982.508 and § 982.305(a)(5) through the waiver process under 24 CFR § 5.110 to require a family to pay more than 40 percent of its monthly adjusted income for an assisted unit, in order to allow the family to lease an assisted living unit that would otherwise be disapproved because the family share would exceed 40 percent of monthly adjusted income. HUD will review such requests on a case-by-case basis and may grant the waiver if HUD determines the request demonstrates good cause.

The PHA must submit with its waiver request: (1) verification that the unit meets the definition noted in section 1 above; (2) a description of the services and amenities provided that would warrant a higher family share; and (3) a copy of sections 9 and 12 of the Family Report (form HUD-50058) for verification that family share exceeds 40 percent of adjusted income. Please note that generally the Department would expect that such requests would not result in the family share exceeding 70 percent of the family's adjusted income.

**4. Information Contact.** Inquiries about this notice should be directed to Phyllis Smelkinson by email at [Phyllis.Smelkinson@hud.gov](mailto:Phyllis.Smelkinson@hud.gov) or by phone at (202) 402-4138.

**5. Paperwork Reduction Act.** The information collection requirements contained in this document have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1955 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0169. In accordance with the Paperwork Reduction Act, 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.

\_\_\_\_\_/s/\_\_\_\_\_  
Sandra B. Henriquez, Assistant Secretary for  
Public and Indian Housing