

# ***MIDDLEBOROUGH HOUSING AUTHORITY***

## ***SECTION 8*** ***ADMINISTRATIVE PLAN***

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**Chapter 23**  
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# **SECTION 8 ADMINISTRATIVE PLAN MIDDLEBOROUGH HOUSING AUTHORITY**

## **CHAPTER 1**

This Administrative Plan is prepared in accordance with the United States Department of Housing and Urban Development's (HUD) Code of Federal Regulations (CFR) as set forth at 24 CFR 982.54. All references made to HUD's CFRs, even though they are bound and maintained as separate documents, are incorporated by reference and are considered as part of this plan.

### **A. STATEMENT OF APPROACH AND OBJECTIVES**

The Middleborough Housing Authority, hereinafter called MHA, Section 8 Federal Rental Assistance Programs attempt to provide very low-income families with affordable housing, while offering these families the widest possible housing choice. We hope that all Voucher holders will have access to all localities of the Commonwealth of Massachusetts and in every neighborhood in the town of Middleborough. The Rental Assistance staff is organized and its procedures designed to implement effectively the goals of the Section 8 Program. The MHA will comply with all federal statutes and currently required regulations, as applicable, in administering Section 8 Federal Rental Assistance Programs.

The MHA will comply with all federal statutes and currently required regulations, as applicable, in administering said Voucher programs, including 24 CFR Part 982. Therefore, this Plan is intended only to provide information relative to MHA discretionary policies, as the MHA shall comply with all required laws and regulations, as they are current and in effect.

**Jurisdiction:** The area in which the housing authority has authority under State and local law to administer the program.

### **B. MIDDLEBOROUGH HOUSING AUTHORITY MISSION STATEMENT**

The goal of the Middleborough Housing Authority is to assist low and moderate-income families, the elderly and the disabled, and to help them obtain affordable housing that is safe, decent, and sanitary. And in so doing, to advocate for and serve the needs of our residents and to encourage and assist all those who can achieve maximum independence to do so.

Through our efforts we will create and expand affordable housing opportunities for the diverse population of Middleborough residents.

We will create and encourage participant self-sufficiency and independence.

We will efficiently allocate our resources encouraging innovation while working together as a team.

We will foster respect for participants, co-workers, and community.

### **C. ADMINISTRATIVE FEE RESERVE 24CFR 982.54(d) (21)**

Expenditures from the Administrative Reserve (Operating Reserve) for other housing purposes shall not exceed \$10,000 per occurrence nor more than \$50,000 in the aggregate for each fiscal year without the prior approval of the Middleborough Board of Commissioners.



**D. RULES AND REGULATIONS 24CFR 982.52**

This Administrative Plan is set forth to define the MHA local policies for operation of the housing programs in the context of Federal laws and Regulations. Such Federal regulations, HUD memos, Notices and guidelines, or other applicable law governs all issues related to Section 8 not addressed in this document. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

**E. TERMINOLOGY**

The Middleborough Housing Authority is referred to as “MHA” or “Housing Authority” throughout this document.

“Family” is used interchangeably with “Applicant” or “Participant” and can refer to a single person family.

“Tenant” is used to refer to participants in terms of their relation to landlords.

“Landlord” and “Owner” are used interchangeably.

“Disability” is used where “handicap” was formerly used.

“Non-citizens Rule” refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The Section 8 program is also known as the Housing Choice Voucher Program.

“HQS” means the Housing Quality Standards required by regulations as enhanced by the MHA.

“Failure to Provide” refers to all requirements in the first Family Obligations. See “Denial or Termination of Assistance chapter.

“Merger date” refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher programs into the Housing Choice Voucher Program.

See Glossary for other terminology.

**F. FAIR HOUSING POLICY 24CFR 982.54(d)(6)**

It is the policy of the Middleborough Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws; the Americans with Disabilities Act; and the U. S. Department of Housing and Urban Development (HUD) regulations governing Fair Housing and Equal Opportunity.

The MHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial status, handicap or disability or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, the Middleborough Housing Authority (MHA) will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made part of the voucher holder’s briefing packet and

also available upon request at the Middleborough Housing Authority office. In addition, all appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The Middleborough Housing Authority will attempt to remedy discrimination complaints made against the MHA. The Middleborough Housing Authority provides a copy of a discrimination form to the complainant and provides them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The Middleborough Housing Authority offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TTD # 617.628.8889.

#### **G. REASONABLE ACCOMMODATION 24 CFR 100.202**

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

- a. A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- b. A record of such impairment; or
- c. Being regarded as having such an impairment

#### **COMMUNICATION**

Anyone requesting an application will also receive a Request for Reasonable Accommodation Form. The MHA may also require a third party competent to make this assessment to provide written verification that the person needs the specific accommodation due to their disability. The MHA feels strongly that its staff is not qualified to make these judgments and therefore must rely on medical or professional judgments in most circumstances.

Notifications of reexamination, appointment, or termination of assistance will include information about requesting a reasonable accommodation. Any notification requesting action by the participant will include information about requesting a reasonable accommodation.

If the MHA finds that the requested accommodation creates an undue administrative or financial burden, the MHA will either deny the request and/or present an alternative accommodation that will still meet the need of the person.

If the participant requests, as a reasonable accommodation, that he or she be permitted to make physical modifications to their dwelling unit, at their own expense, the request should be made to the property owner/manager. The Middleborough Housing Authority does not have responsibility for the owner's unit and does not have responsibility to make the unit accessible.

For the purposes of reasonable accommodation, rehabilitated former drug users and current and recovered alcoholics are considered disabled under federal and or state law. However, a current drug user is not covered.

The MHA will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the MHA's decision.

Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

## **H. SERVICES FOR NON-ENGLISH SPEAKING PERSONS AND PARTICIPANTS**

The Middleborough Housing Authority will endeavor to have bilingual staff or access to people who speak languages other than English. The MHA will provide interpreters when necessary.

## **I. MANAGEMENT ASSESSMENT OBJECTIVES**

In order to maintain the appropriate quality standards for the Section 8 program, the Middleborough Housing Authority will annually review files and records to determine if the work documented in the files or records conforms to program requirements. The MHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the MHA is using its resources in a manner that reflects its commitment to quality and service. The policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators:

- Selection from the Waiting List
- Reasonable Rent
- Determination of Adjusted Income
- Utility Allowance Schedule
- HQS Quality Control Inspections
- HQS Enforcement
- Expanding Housing Opportunities
- Payment Standards
- Annual Re-examinations
- Correct Tenant Rent Calculations
- Pre-contract HQS Inspections
- Annual HQS Inspections
- Lease-up
- Bonus Indicator De-concentration

Supervisory quality control reviews will be performed by a MHA supervisor or another qualified person other than the one originally responsible for the work, as required by HUD, on the following SEMAP factors:

- Selection from the waiting list
- Rent Reasonableness
- Determination of adjusted income
- HQS enforcement
- HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail.

## **J. PRIVACY RIGHTS 24CFR 982.551, 24CFR 5.212**

All adult members of both applicant and participant households are required to sign HUD Form 9886, *Authorization for Release of Information and Privacy Act Notice*. The *Authorization for Release of Information and Privacy Act Notice* states how family information will be released and includes the *Federal Privacy Act Statement*.

Any request for applicant or participant information will not be released unless there is a signed release of information request from the applicant or participant.

**K. FAMILY OUTREACH 24CFR 982.153 (b) (1)**

The Middleborough Housing Authority may advertise in minority and community newspapers, and on local access cable television to reach prospective applicants. The Housing Authority may also submit new releases and feature articles describing the Program and its eligibility requirements to local media. Members of the MHA Rental Assistance staff will, as necessary, present an informational program to groups with members or clients eligible for Section 8 assistance. The MHA may also mail descriptive brochures describing the program to inquirers and distribute them as appropriate to area employment and social service offices in contact with the possible applicants and handicapped and disabled individuals. Advertisements announcing that the MHA will be taking applications for Section 8 assistance will include the dates, time, location and direction to the location which the MHA will accept the applications, a brief description of the program, and the requirements for participation. Materials will be written so as to anticipate common questions and administrative and logistical problems. The MHA will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

**L. OWNER OUTREACH 24CFR 982.54(d)(5), 24CFR 982.153(b)(1)**

The MHA will make a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements. The MHA may advertise in local papers and press releases in local and minority newspapers. The MHA maintains a list of units for the Section 8 Program and updates this list frequently. When listings from owners are received, the MHA staff will compile them by location and bedroom size.

**M. REQUIRED POSTINGS**

The MHA will post in a public place in the waiting room at its Administration Building notice of the status of the Section 8 waiting list (opened or closed), notice of the availability of interpreter services, address of Middleborough Housing Authority office, office hours, telephone number, TDD numbers, hours of operation, Fair Housing Poster, Equal Opportunity in Employment Poster, and notice that the following information is available upon request: Section 8 Administrative Plan, the income limits for admission, payment standards, the utility allowances, and the informal review and informal hearing procedures.

**N. APPLICABILITY**

This Section 8 Administrative Plan (Chapters 1 – 19) covers the Section 8 Housing Choice Voucher Program. For other Section 8 programs presently or may be administered by MHA, see Chapter 20 (SRO Moderate Rehabilitation); Chapter 21 (Homeownership); Chapter 22 (Designated Housing Allocation Program and the Mainstream Program); Chapter 23 (Family Self-Sufficiency); Chapter 24 (Project Based Certificates); and Appendix A (MOU for Shelter Plus Care).

## CHAPTER 2

### ELIGIBILITY FOR ADMISSION

#### 24CFR 982.201 Part 5, Subparts B, D & E; Part 982.353 Subpart E

The policy of the MHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The MHA staff will review all information provided by the family carefully and without regard to factors other than those as defined herein. Families will be provided the opportunity to explain their circumstances; to furnish additional information, if needed and to receive an explanation of the basis for any decision made by the MHA pertaining to their eligibility.

#### **A. ELIGIBILITY FACTORS 24CFR 982.201 (b)**

There are five eligibility requirements for admission to the Section 8 Program – (1) qualifies as a family, (2) has an income within the income limits, (3) meets citizenship/eligible immigrant criteria, (4) provides documentation of Social Security Numbers, and (5) signs consent authorization documents. In addition to the eligibility criteria, families must also meet the Middleborough Housing Authority screening criteria in order to be admitted to the Section 8 Program.

#### **B. FAMILY COMPOSITION 24CFR 982.201**

The applicant must qualify as a Family. A Family may be a single person or a group of persons.

1. A family includes a family with or without children and a group of people related by blood, marriage, adoption or affinity that live together in a stable family relationship.
  - a. Children temporarily absent from the home due to placement in foster care or temporarily placed in a residential program are considered part of the family.
  - b. Unborn children are not considered family members for purposes of determining bedroom size
  - c. Children in the process of being adopted are considered family members for purposes of determining bedroom size, but are not considered family members for determining income limit.
2. An elderly family, which is:
  - a. A family whose head, spouse, or sole member is a person who is at least 62 years of age;
  - b. Two or more persons who are at least 62 years of age living together; or
  - d. One or more persons who are at least 62 years of age living with one or more live-in aides
3. A **disabled family**, which is:
  - a. A family whose head, spouse, or sole member is a person with disabilities;
  - b. Two or more persons with disabilities living together; or
  - c. One or more persons with disabilities living with one or more live-in aides.
  - d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
4. A **displaced family** is a family in which each member, or whose sole member, has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

5. **A Remaining Member of a tenant family** is a member of the family listed on the HUD-50058 form that continues to live in an assisted household after other family members have left.

6. **A single person** who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

### **Live-in Attendants**

A live-in aide may only reside in the unit with approval of the MHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor. The verification provider must certify that, a live-in aide is needed for the care of the family member who is elderly, near elderly or disabled.

A family may include a live-in aide provided that such live-in aide:

- Is determined by the MHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s) and
- Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits
- Live-in aides are not subject to Non-Citizen Rule requirements
- Live-in Aides may not be considered as a remaining member of the family

24CFR 982.316 At any time, the MHA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program
- The person commits drug-related criminal activity or violent criminal activity
- The person currently owes rent or other amounts to the MHA or to another LHA in connection with Section 8 or public housing assistance under the 1937 Act.

### **Multiple families in the same household**

When families apply which consist of two families living together, (such as a mother, father and a daughter with her own husband or children), if they are presently residing together as a family unit in one residence, they will be treated as a family unit.

### **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively. Court certification will be required of families who claim joint custody or temporary guardianship.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

## **C. INCOME ELIGIBILITY 24CFR 982.201 (b), 24CFR 982.353**

1. To be eligible to receive assistance a family shall, at the time the family initially receives assistance under the Section 8 program shall be a family that is:

- a. An extremely low-income or a very low-income family;

- b. A low-income family continuously assisted under the 1937 Housing Act;
- c. A low-income family that meets additional eligibility criteria specified by the Housing Authority;

**D. MANDATORY SOCIAL SECURITY NUMBERS 24CFR 5.216, 5.218**

Families are required to provide verification of Social Security Numbers for all family members age 6 and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance. Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number. Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification.

**E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS 24 CFR 982.353 Part 5, Subpart E**

In order to receive assistance, a family member must be an U.S. citizen or eligible immigrant. Individuals, who are neither, may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that included eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

All members ineligible. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. Defined by HUD in the non-citizen regulations at 24 CFR 5.522 are not eligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

**F. OTHER CRITERIA FOR ADMISSIONS 24CFR 982.552(b)**

An applicant may be denied admission to the program as set forth in Chapter 15 of this plan.

**G. TENANT SCREENING 24CFR 982.307(a) (3), 24CFR 982.54(d) (7)**

The MHA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

In accordance with HUD requirements, the MHA will furnish prospective landlords, who request the family's address information in writing, with the family's current address as shown in the MHA's records and, if known to the MHA, the name and address of the landlord at the family's current and prior addresses.

The MHA may make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The MHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants.

### **INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.



## CHAPTER 3

### **APPLYING FOR ADMISSION (24CFR 982.204)**

#### **A. CENTRALIZED WAIT LIST**

The Middleborough Housing Authority has elected to utilize the Centralized Application and Waiting List process effective November 6, 2002. Over the past few years, the Department of Housing and Urban Development has encouraged the use of a Centralized Waiting List by Public Housing Authorities.

The Centralized Section 8 Waiting List affords the Middleborough Housing Authority and its clients the following benefits:

1. Ease of application process for applicants who may apply at the office of any Housing Authority participating in the centralized waiting list option.
2. Eliminate the procedural hardship on families and administrative burden to the Housing Authority of closing and opening of the Section 8 Waiting List. The Centralized Section 8 Waiting List will be maintained as an open waiting list.
3. Increase housing opportunities for families who now have the potential option of placement at a number of locations throughout the Commonwealth through the submission of a single application.

When the MHA opens or closes the waiting list, the MHA will advertise through public notice in the Middleborough Gazette, El Mundo and on local access cable television. The MHA may also submit news releases and feature articles. The MHA will also endeavor to mail an announcement to all local agencies and community groups with members or clients eligible for Section 8 assistance

#### **B. ACCEPTANCE OF APPLICATIONS**

A single, standardized Preliminary Application is available at each participating Housing Authority and on-line at [www.section8list.mass.org](http://www.section8list.mass.org). A master list of all participating Housing Authorities will be maintained at the office of the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials (hereinafter MassNAHRO) and at each participating Housing Authority and on-line at [www.section8list.mass.org](http://www.section8list.mass.org). Only one application will be accepted for each Head of Household.

The Preliminary Application will request information as required to administer the Section 8 Housing Choice Voucher Program such as: name and city or town (where Head of Household and spouse live and work), telephone number, total number of family members, Head of Household's social security number, if client is 62 years of age or older or disabled, total gross family income, race, and ethnicity. Information regarding preferences adopted by participating Housing Authorities will also be elicited on this application.

The Housing Authorities collectively reserve the right to modify the application to include other information required or useful to administer the Section 8 Housing Choice Voucher Program. All participating Housing Authorities must agree to adopt said modification to the application in advance to such modification.

Applications will be available for completion at the Middleborough Housing Authority in person between the hours of 9:00 a.m. and 3:00 p.m. Mondays, Tuesdays, Thursdays and Fridays and/or may be mailed or faxed. Applications can be submitted online anytime.

Upon completion of the application it shall be marked by the Housing Authority staff with date and the time of submission and the family shall be provided with a standard receipt evidencing submission of the application.

The Middleborough Housing Authority will then enter the information from the Preliminary Application into the Centralized Waiting List.

### **C. UPDATING THE APPLICATIONS**

A family may update its application (i.e. change of address) for Section 8 Assistance on-line at [www.section8list.mass.org](http://www.section8list.mass.org) or at the office of any Housing Authority participating in the Centralized application process regardless of where the original application was submitted. To update the application a written request must be submitted by the family.

### **D. SELECTION FROM THE WAITING LIST**

The selection criteria set forth in the Middleborough Housing Authority's Administrative Plan shall govern the manner in which individuals and families are selected by the Middleborough Housing Authority from the Centralized Section 8 Waiting List.

### **E. DETERMINATION OF ELIGIBILITY**

Once a family has been selected from the Centralized Section 8 Waiting List in the manner set forth in the Middleborough Housing Authority's Administrative Plan for the Section 8 Housing Choice Voucher Program, eligibility determination shall be made according to federal law, State law and any applicable procedures set forth in the Middleborough Housing Authority's Administrative Plan for the Section 8 Housing Choice Voucher Program.

#### ***1. Requirement to Attend Eligibility Determination Interview***

Applicants nearing the top of waiting list will be invited to attend an eligibility interview. At this time applicants will be required to complete a full application which will be utilized to make a final determination of eligibility. The Middleborough Housing Authority will ensure that verification of all preferences, eligibility, suitability selection factors are current in order to determine the family's final eligibility for admission into the Section 8 Program. The interview letter will require that the applicant provide the MHA with verification of: preference/priority; family composition; income; allowances and deductions, i.e. medical expenses, daycare expenses, home care expenses; assets; disability; veterans status, handicap elderly status, full-time student status; and provide copies of social security cards and birth certificates. All household members age 17 and older must attend the interview and sign the application, HUD Form 9886, Release of Information, declarations and consents related to citizenship / immigration status and any other documents required by the MHA. Failure to do any of the above will be cause for denial of the application for failure to provide necessary certification and release as required by the MHA. Verifications may not be more than sixty (60) days old at the time of issuance of the Voucher. Exceptions may be made for students attending school out of state/for members for whom attendance would be a hardship.

The MHA is aware of the requirement to provide a Reasonable Accommodation in its rules or policies when so required under the law. Thus, certain policies described herein may be amended in specific situations if to do so is required as a reasonable accommodation to an individual with a disability. The provision of such accommodation shall not mean that such policy has been altered or amended and the MHA shall retain full authority to continue to enforce policies as so described within this plan for all other clients.

#### ***2. Non Responsive To Notices***

If a family does not respond to the first eligibility interview notice within seven (7) business days a second and final notice will be sent to the applicant. If the applicant fails to respond to the second eligibility notice within seven (7) business days, the Housing Authority shall "unselect" / remove the family's name from the Middleborough Housing Authority's waiting list. The applicant may request an informal review under the procedures stated herein.

### **3. *Failure to Submit Eligibility Documentation***

If the family does not submit to the Housing Authority within fourteen (14) business days of the eligibility determination appointment the required documentation as identified at said eligibility appointment, the Housing Authority shall "unselect" / remove the family's name from the Middleborough Housing Authority's waiting list. The MHA will send the applicant notification of withdrawal. The applicant may request an informal review under the procedures stated herein.

In all cases listed above, the family's name will not be removed by the Middleborough Housing Authority from the Centralized Section 8 Waiting List because the family may be eligible under another participating Housing Authority's policies. However, the family will not be selected again by the Middleborough Housing Authority unless the family has been withdrawn from the Centralized Section 8 Waiting List and a new application has been submitted.

## **F. DETERMINATION OF INELIGIBILITY**

### **1. *Ineligibility for Assistance***

If a family is denied assistance by the Middleborough Housing Authority, they will have the right to the grievance procedures set forth in the Middleborough Housing Authority's Administrative Plan. After such time expires to request an informal hearing or a hearing is held and the decision is upheld, the family will be denied participation in the Section 8 Program by the Housing Authority making the determination. The family's name will not be removed by the Middleborough Housing Authority from the Centralized Section 8 Waiting List because the family may be eligible under another participating Housing Authority's policies. However, the family will not be again selected by the Middleborough Housing Authority unless the family has been withdrawn from the Centralized Section 8 Waiting List and a new application has been submitted.

### **2. *Determination that Family is Over Income Limits***

If the family was denied participation in the Section 8 Housing Choice Voucher Program because it was over income for the program, the name will be removed from the Centralized Section 8 Waiting List if the Housing Authority making the determination is in the jurisdiction with the highest income limits of those Housing Authorities participating in the Centralized Section 8 Waiting List process. Otherwise, the family's name will not be removed by the Middleborough Housing Authority from the Centralized Section 8 Waiting List because the family may be income eligible under another participating Housing Authority's policies. However, the family will not be again selected by the Middleborough Housing Authority unless the family has been withdrawn from the Centralized Section 8 Waiting List and a new application has been submitted.

### **3. *No Response***

Further, if the family does not respond to a letter sent by a participating Housing Authority to attend an eligibility determination appointment or to otherwise respond to the Housing Authority, the Housing Authority who requested said response may remove the family's name from the Centralized Section 8 Waiting List. The manner and grounds for said removal shall be governed by the Administrative Plan for the Housing Authority making said removal.

## **G. WAITING LIST UPDATES; PURGING OF WAITING LIST**

MassNAHRO will, on a biennial basis, send a letter to each applicant on the Centralized Section 8 Waiting List. This letter will be sent to the address on the Section 8 Preliminary Application or on any written change of status request that was completed and sent to a participating Housing Authority. Applicants will be requested to respond to the mailing either on-line at [www.section8list.mass.org](http://www.section8list.mass.org) or by mailing back the response card, within a time parameter set forth in the letter and the letter shall indicate that failure to respond will result in the removal of his/her name from the Centralized Section 8 Waiting List. In the event that the applicant does not

respond within the applicable time parameter, his/her name shall be removed from the Centralized Section 8 Waiting List.

#### **H. GRIEVANCES OR COMPLAINTS; JURISDICTION**

When a family expresses a problem with a decision made by a Housing Authority involved in the Centralized Section 8 Waiting List option, that family shall be referred to the Housing Authority who made the determination in question. When a family expresses a problem with a decision made by MassNAHRO on behalf of all LHAs participating in Centralized Waiting List, that family shall be instructed to send a written request for reinstatement along with supporting documentation to MassNAHRO's Centralized Waiting List Administrator at: [Massachusetts Centralized Waiting List, PO Box 8727 Boston MA 02114.](#)

#### **I. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY 24CFR 982.201**

After the verification process is completed, the MHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the MHA and the current eligibility criteria in effect. If the family is determined to be eligible, the MHA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

## Chapter 4

### ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST 24CFR Part 5, Subpart D; 982, 54(d) (1) 982.204, 982.205, 982.206

It is the MHA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan

This chapter explains the local preferences which the MHA has adopted to meet local housing needs, defines the eligibility criteria for the preferences and explains the MHA's system of applying them.

By maintaining an accurate waiting list, the MHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

#### **A. WAITING LIST 24CFR 982.204**

A single, standardized Preliminary Application for admission to the Section 8 Tenant-based assistance program is available at each participating Housing Authority that utilizes the Centralized Wait List. A master list of all participating Housing Authorities will be maintained at the office of the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials (hereinafter MassNAHRO) and at each participating Housing Authority. Only one application will be accepted for each Head of Household. Applications are available at all participating Housing Authorities. Additionally, applications are available for download at the MassNAHRO website [www.affordablehousing.com](http://www.affordablehousing.com).

Except for Special Admission, applicants will be selected from the MHA waiting list in accordance with policies and preferences in income targeting requirements defined in this Administrative Plan.

The waiting list contains the following information for each applicant listed:

- Applicant name
- Family unit size (number of bedroom family qualified for under MHA subsidy standards)
- Date and time of application
- Qualification of any local preference
- Annual gross family income
- Number of persons in family

#### **B. SPECIAL ADMISSIONS 24CFR 982.54(d) (e), 24CFR 982.203**

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The MHA maintains separate records of these admissions. There are two types of Special Admissions.

1. A special admission will be given to those families involved in actions with other governmental agencies, including but not limited to: witness protection and protective custody programs. MHA will admit these families under a Special Admission procedure.
2. If HUD awards the MHA program funding that is targeted for specifically named families, the MHA will admit these families under a Special Admission procedure.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project:

- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term and
- A non-purchasing family residing in a HOPE I or HOPE 2 project.

### **C. PREFERENCES 24CFR 982.207**

The MHA gives preference to an Applicant on the waiting list if they qualify for one of the Preference categories listed below. An applicant may qualify for more than one Preference at a time.

The MHA uses the following local preference system:

#### **1. FIRST PREFERENCE - DATE & TIME OF RECEIPT OF A COMPLETED APPLICATION**

Upon submission of a completed application, it shall be marked by the Housing Authority staff with date and the time of receipt.

The MHA will then enter the information from the Preliminary Application into the Centralized Waiting List. The family will be mailed a standard receipt evidencing submission of the application after the information is entered into the Centralized Waiting List

#### **2. SECOND PREFERENCE - VETERAN PREFERENCE.**

To qualify for this preference the applicant must be a veteran, a member of the armed services of The United States or a dependent family member of a veteran or a service person.

- The word “veteran” as used herein is defined as any person who was honorably discharged from the army, navy, marine corps, coast guard, air force, or on full time national guard duty for not less than 90 days active service at least 1 day of which was for wartime service; or for not less than 180 days active service during peacetime.
- The word “veteran” shall also include the spouse or the surviving spouse of the military veteran.
- Primary verification for veteran preference is verification by the Department of Defense through the use of form DD-214.
- Third party verification of relationship to the veteran

#### **3. THIRD PREFERENCE - LOCAL RESIDENT**

Residency preference for families who live in Middleborough, work in Middleborough, have been hired to work in Middleborough or who have been displaced from their dwelling unit in Middleborough and have not obtained permanent replacement housing at the time of application and at the time of verification of eligibility. In order to verify that an applicant is a resident, the MHA may require third party verification such as:

- Leases/utility bills
- Employer or agency records
- School records
- Drivers licenses
- Voter registration records
- Any other documentation deemed relevant by the MHA

#### **4. FOURTH PREFERENCE - DISPLACED BY MHA ACTION**

The MHA will admit an Applicant to the Section 8 program before all other Applicants on the waiting list if:

- The Applicant resides in MHA public housing, AND
- The Applicant is being temporarily displaced due to MHA rehabilitation and modernization programs

#### **D. STANDARD APPLICANTS**

Standard Applicants are Applicants that do not qualify for a Preference. The following list types of applications that will be considered as a Standard Application

##### **1. INVOLUNTARY DISPLACEMENT**

Involuntarily displaced applicants are applicants who have been involuntarily displaced and are not living in standard, permanent replacement housing, or will be involuntarily displaced within no more than 6 months from the date of verification by the MHA.

Families are considered to be involuntarily displaced if they are required to vacate housing as a result of:

1. A disaster (fire, flood, earthquake, etc.) that has caused the unit to be uninhabitable.

Verification must include:

- A copy of the incident report from the local Fire Department or other appropriate agency who deals with disaster; and
  - A copy of his/her lease or a statement from the property Owner, verifying that s/he is/was the tenant of records at the affected address; and
  - Verification from the Fire department, the Inspectional Services Department, the Health Department or other appropriate agency that the dwelling unit is now uninhabitable; and
  - The cause of the disaster if known (NOTE: if the Applicant or Household Member or guest was the cause of the disaster, approval for Priority status will be denied unless Mitigating Circumstances are established to the satisfaction of the MHA.
2. Federal, state or local government action related to code enforcement, public improvement or development.
    - The action occurred despite the Applicant having met all lawfully imposed lease conditions;
    - Displacement was not the result of failure to comply with HUD and State policies in it's housing programs with respect to occupancy of under-occupied and over-crowded units or
    - Failure to accept a transfer to another unit in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.
  3. Action by housing owner which is beyond an applicant's ability to control ( Note- this does not include Notices to Quit for non-payment of rent or for good cause).

Verification must include:

- A copy of the Notice to Quit issued by the landlord or property manager and
- A copy of the Summons Complaint available from the court; and
- A copy of the Answer or other response(s) filed by the Applicant in court in response to the Complaint, if any; and

- A copy of the Judgment of the Court (or an Agreement for Judgment, Order for Judgment and Findings of Fact, or Default Judgment); and
- If applicable, a copy of the execution issued by the court.
- If applicable, a written statement of the applicant setting forth why the displacement is beyond the applicant's control.

The information contained in the above referenced documents must establish to the satisfaction of the MHA that:

- The action taken by the landlord or property manager was beyond the Applicant's ability to control or prevent:
- The Action by the landlord or property manager occurred despite the Applicant having met all previously imposed conditions of occupancy
- Displacement was not the result of failure to comply with HUD or State policies in its housing programs with respect to occupancy of under-occupied and over-crowded Apartments or
- Failure to accept a transfer to another Apartment in accordance with a court order or policies or desegregation plan.

If the owner is an immediate family relative and there has been no previous rental agreement and the applicant has been part of the owner's family immediately prior to application, the applicant will not be considered involuntarily displaced.

For the purposes of this definitional element, reasons for an applicant to have to vacate a housing unit include, but are not limited to:

- A conversion of an applicant's housing unit to non-rental or non-residential use;
- Closure of an applicant's housing unit for rehabilitation or non-residential use;
- Notice to an applicant that s/he must vacate a unit because the owner wants the unit for the owner's personal or family use or occupancy;
- Sale of a housing unit in which an applicant resides under an agreement that the unit must be vacant when possession is transferred
- Any other legally authorized act that results, or will result in the withdrawal by the owner of the unit or structure from the rental market.

## **2. VICTIMS OF DOMESTIC VIOLENCE:**

Victims of domestic violence are families that have been subjected to violence or victimized by a member of the family or household within the past 6 months. The MHA will require evidence that the family (a) has been displaced as a result of fleeing violence in the home; or (b) is currently living in a situation where they are being subjected to or victimized by violence in the home; or (c) is displaced or about to be displaced from the home due to the loss of income from an abuser required to leave the home due to domestic violence. The following criteria are used to establish a family's eligibility for this preference:

- Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives or lived in the unit with the family.
- The actual or threatened violence must have occurred within the past 180 days or be of a continuing nature
- An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.
- The applicant must certify that the abuser will not reside with the applicant unless the MHA gives prior written approval.



The MHA will approve the return of the abuser to the household under the following conditions:

- The MHA verifies from a counselor, therapist or other appropriate professional that abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior and
- A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the MHA, the MHA will deny or terminate assistance for breach of the certification.

Verification must include:

- A third-party written verification from the local police department, a social service agency, a court of competent jurisdiction, a clergy member, a physician, or a public or private facility that provides shelter or counseling to the victims of domestic violence.
- The application must also supply the name and address of the abusive or threatening Household Member or other legal occupant of the dwelling, if not already provided and provide documentation that the Applicant and the alleged abuser are/were Household Members of the same dwelling unit at the time the alleged abuse occurred.

Verification ***will not*** be considered valid unless it:

- Supplies the name of the threatening or abusive Household Member or other legal occupant of the dwelling unit,
- Describes how the situation came to verifier's attention, and
- Indicates that the threats and/or violence are of a recent (within the past 6 months) or continuing nature if the Applicant is still residing in the dwelling where the violence has occurred or is occurring, or
- Indicates that the Applicant was displaced because of the threats and/or violence and that the Applicant is in imminent danger where he/she now resides.

### **3. STANDARD REPLACEMENT HOUSING**

Replacement housing applicants are families who have been displaced and are not living in "standard, permanent replacement housing."

**Standard replacement housing** is defined as housing that is decent, safe and sanitary that is adequate for the family size according HQS/local/state code and that the family is occupying pursuant to a written or oral lease or occupancy agreement between the family and the property owner or agent.

Standard replacement housing does not include transient facilities, hotels, motels, temporary shelters and in the case of Victims of Domestic Violence housing occupied by the individual who engages in such violence.

It does not include any individual imprisoned or detained pursuant to State Law or an Act of Congress or situation where a family is temporarily doubled up in overcrowded housing with family or friends.

### **4. SUBSTANDARD HOUSING**

Applicants who live in substandard housing are families whose dwelling meets one or more of the following criteria (provided that the family did not cause the condition):

- Is dilapidated (as cited by officials of local code enforcement office) and does not provide safe, adequate shelter; has one or more critical defects or a combination of defects requiring considerable repair; endangers the health, safety and well-being of the family.
- Does not have operable indoor plumbing.
- Does not have usable flush toilet in the unit for the exclusive use of the family.
- Does not have usable bathtub or shower in unit for exclusive family use.
- Does not have adequate, safe electrical service.
- Does not have an adequate, safe source of heat.
- Should, but does not, have a kitchen. (SRO is not substandard solely because it does not contain sanitary and/or food preparation facilities in the unit).
- Has been declared unfit for habitation by a government agency.
- Persons who reside, as part of a family unit shall not be considered a separate family unit for substandard housing definition preference purposes.

Verification Requirements:

- Third party, written verification from the appropriate unit or agency of government certifying that the Applicant has been displaced or will be displaced in the next ninety days, as a result of action by the agency; and
- The precise reason(s) for such displacement.

## 5. **HOMELESS FAMILY**

A homeless individual or homeless person includes:

- An individual who lacks a fixed, regular and adequate nighttime residence;  
OR
- An individual who has a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations (including welfare hotels, congregate shelters and transitional housing), or an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as a sleeping accommodation for human beings.
- Families who are residing with friends or relatives on a temporary basis will not be included in the homeless definition.
- Person who resides, as part of a family unit shall not be considered a separate household.

Verification Requirements:

- Submission of a Certificate of Homelessness fully completed by an appropriate source and the Applicant's signed statement that he/she lacks a fixed, regular and adequate nighttime residence;
- or his/her primary nighttime residence is:
  1. A supervised public or Private shelter designed to provide temporary housing accommodations (i.e. welfare hotels, congregate shelters and transitional housing); or
  2. A public or private place not designed for use for a regular sleeping place for human beings.
  3. An appropriate source includes a public or private facility that provides shelter for homeless individuals, the local police department or a social services agency.

## **6. RENT BURDEN**

Rent burden is when families are paying more than 50% of their income for rent and utilities for at least 90 days commencing before they were selected from the waiting list and continuing through the verification process

For purposes of this preference, “family income” is Gross Monthly Income as defined in 24CFR982.

“Rent” is defined as the actual amount due under a lease or occupancy agreement calculated on a monthly basis without regard to the amount actually paid, plus the monthly amount of tenant-supplied utilities. The applicant must pay rent directly to the landlord or agent.

### **Verification Requirements:**

Families will be required to verify their income, the amount of rent and utilities they are obligated to pay and the period of time they have been residing in the unit. Families must furnish copies of

- Lease
- Canceled checks or money orders
- The MHA may contact the landlord directly, by mail or telephone

In cases where the family pays rent to a co-renter or sublets the unit, the MHA requires a certification from the person who receives the money from the applicant AND verification from the owner that the family resides in the unit.

If there is no lease or occupancy agreement and the family is receiving public assistance, the MHA may verify the amount of rent and address of the unit with the appropriate social service agency

If there is no lease or occupancy agreement, and the family is not receiving public assistance, the MHA will require receipts and other forms of identification, which indicate the residence. Such documents include receipts, telephone bills, utility bills, driver’s license, and school records.

## **E. ORDER OF SELECTION**

MassNAHRO maintains the waitlist. When an applicant reaches the top of Wait List for the participating community, they shall be so notified. The MHA’s method for selecting applicants leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

1. Date and time will organize ALL applicants on the wait list
2. Applicants receiving the Veterans preference will be chosen first in accordance with the date the application was submitted
3. Applicants receiving the local preference will be chosen only after all veterans have been chosen irregardless of date submitted by the veteran applicant(s)
4. Standard, non resident applicants will be chosen only after all veterans and all local preference applicants have been chosen irregardless of date submitted by veteran and/or local applicant(s)

## **F. INCOME TARGETING**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the MHA will reserve a minimum of 75% of its Section 8 new admissions for families whose income does not exceed 30% of the area median income. HUD refers to these families as “extremely low-income families.” The MHA will admit

families who qualify under the Extremely Low-Income limit to meet the income-targeting requirement, regardless of preference.

The MHA's income targeting requirement does not apply to low -income families continuously assisted as provided for under the 1937 Housing Act.

#### **G. PREFERENCE AND INCOME TARGETING ELIGIBILITY 24CFR 982.207**

##### **Change in Circumstances**

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the MHA in writing when their circumstances change.

When an applicant claims an additional preference, s/he will be placed on the waiting list in the appropriate order determined by the newly claimed preference.

The exception to this is, if at the time the family applied, the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference before they are returned to the waiting list with the new preference.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low Income limit and the family was selected for income targeting purposes before families with a higher preference, the family will be returned to the waiting list.

#### **H. PREFERENCE DENIAL 24CFR 982.207**

If the MHA denies a preference, the MHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal meeting. If the preference denial is upheld, as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference or priority.

If the applicant falsifies documents or makes false statements in order to qualify for any preference or priority, they will be removed from the waiting list.

#### **J. REMOVAL OF APPLICANTS FROM THE WAITING LIST**

The Middleborough Housing Authority will not remove an applicant's name from the waiting list unless:

- A. The applicant requests that the name be removed; or
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program; or
- C. The applicant fails to attend a scheduled appointment at the MHA; or
- D. The applicant does not meet Section 8 eligibility criteria as set forth in Federal Regulations or by the MHA rules/policies; or
- E. If the applicant falsifies documents or makes false statements in order to qualify for any preference or priority, they will be removed from the waiting list.

## CHAPTER 5

### SUBSIDY STANDARD 24CFR 982.54 (d) (9)

#### A. **DETERMINING FAMILY UNIT (VOUCHER SIZE) 24CFR 982.402**

The Middleborough Housing Authority will issue a voucher for a particular bedroom size - the bedroom size is a factor in determining the family's level of assistance.

The MHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The MHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements. The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

Generally, the MHA assigns one bedroom to two people in accordance with the below listed guidelines.

The following guidelines will determine each family's unit size without overcrowding or over-housing:

- The bedroom size assigned shall not require more than two persons to occupy the same bedroom;
- Separate bedrooms would be allocated for persons of the opposite sex (other than adults who have a spousal relationship).
- Two children under 6 regardless of gender, will be required to share a bedroom
- Very young children of the voucher holder will be required to share a bedroom with the parent to at least the age of 18 months
- Grandchild of the voucher holder shall be required to occupy the same bedroom or living/sleeping area as its parent until age six.
- Foster children will be included in determining unit size only if they will be in the unit for more than 6 months;
- Foster adults and children will not be required to share a bedroom with family members;
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family;
- An unborn child of a pregnant woman will not be considered in determining family size;
- Children who are temporarily away at school will be considered in determining family size;
- A two-bedroom unit may be used by a two-member family, which consists of a single parent and child, or by two people who, due to medical reasons, must have a separate bedroom as approved by the MHA;
- Child, temporarily placed in foster care, or temporarily placed in a residential program or because of a joint custody agreement lives with one parent at least 51% (183 day a year) is considered part of the family;
- Single person families shall be allocated 1 bedroom.

## **GUIDELINES FOR DETERMINING VOUCHER SIZE**

Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
SRO	1	1
0-br	1	1
1-br	1	2
2-br	2	4
3-br	3	6
4-br	4	8
5-br	5	10
6-br	6	12

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons.

### **B. EXCEPTIONS TO SUBSIDY STANDARDS 24CFR 982.403(a) & (b)**

In the event that insufficient Housing Assistance Payments are received from HUD, the MHA will make the allowable reductions and/or changes to the subsidy standard, the utility standards, the number active vouchers and/or any other recommendations by HUD.

The MHA may grant exceptions from the subsidy standards if the family requests and the MHA determines the exceptions are justified by the relations, age, sex, health or disability of family members, or other individual circumstances.

The MHA may grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

- Verified medical or health reason
- Elderly persons or persons with disabilities who may require a live-in attendant

### **REQUEST FOR EXCEPTIONS TO SUBSIDY STANDARDS**

The family may request a larger sized voucher than indicated by the MHA's subsidy standards. The Middleborough Housing Authority may grant exceptions to normal occupancy standards when a family requests a larger size than the guidelines allow and documents a medical reason why the larger size is necessary. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate

The family unit size will be determined by the Middleborough Housing Authority in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be larger or smaller than the family unit size. If the family selects a smaller unit, the payment standard for the smaller size will be used to calculate the subsidy. If the family selects a larger size, the payment standard for the family unit size will determine the maximum subsidy.

The MHA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

Requests based on health related reasons must be verified by a professional competent to make the assessment.

## **MHA ERROR**

If the MHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

## **CHANGES FOR APPLICANTS**

The voucher size is determined prior to the briefing by comparing the family composition to the MHA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the MHA subsidy standards, the above referenced guidelines will apply.

## **CHANGES FOR PARTICIPANTS**

The members of the family residing in the unit must be approved by the MHA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the MHA within 10 working days. The above referenced guidelines will apply.

## **UNDERHOUSED AND OVERHOUSED FAMILIES 24 CFR 982.403:**

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the MHA will issue a new voucher of the appropriate size and assist the family in locating a suitable unit. Families may rent a unit with fewer numbers of bedrooms than stated on Voucher if the unit meets space requirements of the Housing Quality Standards, as well as any applicable state or local codes.

If the family is over- housed ( exceeds the bedroom size for the present family composition), and the rent exceeds the payment standard including the utility allowance for the appropriate sized unit, then the family shall relocate to an appropriate sized unit by the voucher holder's next annual recertification or within 120 days, whichever is sooner. In the event that the family is over- housed but the rent is below the payment standard for the appropriate sized unit, the family may remain in the larger unit as long as the unit does not exceed 40% of the family income. If the family fails to relocate to an appropriate sized unit within the 120 days, the family shall be responsible for the full contract rent.

## **24 CFR 982.403 Terminating HAP contract when unit is too small.**

### **(a) Violation of HQS space standards.**

(1) If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible.

(2) If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

### **(b) Termination. When the PHA terminates the HAP contract under paragraph (a) of this section:**

(1) The PHA must notify the family and the owner of the termination; and

(2) The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.

(3) The family may move to a new unit in accordance with § 982.354.

## **C. UNIT SIZE SELECTED 24 CFR 982.402 (c)**

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to

consider:

- Subsidy Limitation: The family unit size as determined for a family under the MHA subsidy standard for a family assisted in the voucher program is based on the MHA's adopted payment standards. The payment standard for a family shall be the lower of:
  - Payment standard amount for the family unit size; or
  - The payment standard amount for the unit size rented by the family.
- Utility Allowance: The unit utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's voucher.
- Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/'sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

### HQS GUIDELINES FOR UNIT SIZE SELECTED

<u>Unit Size</u>	<u>Maximum Number in Household</u>
0 bedroom	1
1 bedroom	4
2 bedrooms	6
3 bedrooms	8
4 bedrooms	10
5 bedrooms	12
6 bedrooms	14



## CHAPTER 6

### DETERMINATION OF FAMILY INCOME 24CFR PART 5, SUBPARTS E AND F; 982.153, 982.551

The MHA will use the method as set forth in this Administrative Plan to verify and determine that the family income at admission and at annual reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations. To determine annual income, the Middleborough Housing Authority will count the income of all family members, except the types and sources of income that HUD identifies as excluded income. The Middleborough Housing Authority will subtract all allowable deductions as the next step in determining the adjusted family income.

#### **A. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION 24CFR 5.612**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students who are enrolled in institutions of high education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with MHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents. In addition, this new law does not apply to persons with disabilities who were not receiving Section 8 assistance as of November 30, 2005.

#### **Independent Student**

The MHA will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law and
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student and
- To be considered an Independent student according to the Department of Education, a student must meet one or more of the following criteria:
  1. Be at least 24 years old by December 31 of the award year for which aid is sought
  2. Be an orphan or a ward of the court through the age of 18
  3. Be a veteran of the U.S. Armed Forces
  4. Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
  5. Be a graduate or professional student
  6. Be married
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms and
- The individual provides a certification of the amount of financial assistance that will be provided

by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

### **Institution of Higher Education**

The MHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education.

### **Parents**

For purposes of student eligibility restrictions, the definition of parents includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc).

### **Veteran**

A veteran is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

### **Determining Student Eligibility**

For any student who is subject to the 5.612 restrictions, the MHA will:

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program.
- Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section.
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

If the MHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the MHA will send a notice of denial in accordance with the policies set forth in this Plan and the applicant family will have the right to request an informal review in accordance with the policies in this Plan.

### **Determining Parental Income Eligibility**

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of independent student in this section, the MHA will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, the MHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the MHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the MHA will obtain an income declaration certification of income from each parent.
- If the student has been living with one of his/parents and has not had contact with or does not know where to contact his/her other parent, the MHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The MHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the MHA will use the income limits for the jurisdiction in which the parent lives.

## **B. INCOME AND ALLOWANCES 24CFR 5.609**

Income means all amounts, monetary or not, that:

1. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family

- member, or
- 2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- 3. Are not specifically excluded from annual income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income), or the Middleborough Housing Authority believes that past income is the best available indicator of expected future income, the Middleborough Housing Authority may annualize the income anticipated for a shorter period, subject to a re-determination at the end of the shorter period.

Annual income is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income, which has been excluded by HUD. Annual income includes but is not limited to:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions fees, tips and bonuses, and other compensation for personal services.
2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.;
  - a. *Business Expansion* is defined as any capital expenditure made to add new business activities, to expand current facilities, or to operate a business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.
  - b. *Capital Indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the MHA will allow as a business expense interest, but not principal, paid on capital indebtedness.
  - c. *Co-owned Business*. If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.
3. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount.
4. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. However, lump sum additions such as medical insurance payments from worker's compensation are excluded.
5. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.

6. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.).
7. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
8. MHA procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the MHA interview date. The MHA will follow "HUD Guidelines for Projecting Annual Income" when Enterprise Income Verification (EIV) Data is available in handling differences between EIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. A substantial difference is defined as a difference of \$40 or more per month.
  - a. *No Substantial Difference.* If EIV information for a particular income source differs from the information provided by a family by less than \$40 per month, the MHA will follow these guidelines:
    - aa. If the EIV figures are less than the family's figure, the MHA will use the family's verifiable documentation.
    - bb. If the EIV figures are more than the family's figures, the MHA will use the EIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (i.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the MHA will use the family-provided information.
    - cc. If the total verifiable income change is less than \$500 annually or \$40 per month, no Interim Recertification will be required and a notation will be made on the EIV report.
  - b. *Substantial Difference.* If EIV information for a particular income source differs from the information provided by a family by \$40 or more per month, the MHA will follow these guidelines:
    - aa. The MHA will request written third-party verification from the discrepant income source in accordance with 24CFR 5.236 (b) (3) (i ).
    - bb. When the MHA cannot readily anticipate income (e.g. in cases of seasonal employment, unstable working hours, or suspected fraud), the MHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.
    - cc. The MHA will analyze all EIV, third-party, and family-provided data and attempt to resolve the income discrepancy.
    - dd. The MHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

Adjusted income is defined as the Annual income minus any HUD allowable expenses and deductions.

HUD has 5 allowable deductions from the annual income

- a. Dependent Allowance: \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
- b. Elderly/Disabled Allowance: \$400 per family for families whose head or spouse is 62 or over or disabled.
- c. Allowable medical expenses for family members of an eligible elderly or disabled family; and
- d. Reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus; and
- e. Reasonable Child Care Expenses deducted for care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment. This deduction shall not exceed the amount of employment income that is included in annual income.

### **C. EXCLUSIONS FROM INCOME**

Annual income does not include the following:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- C. Lump-sum additions to family assets, such as inheritances, insurance payments (including medical payments under health and accident insurance and worker's compensation) and settlement for personal or property losses;
- D. Amounts received by the family that is specifically for or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution;
- G. The special pays to a family member serving in the Armed Forces who is exposed to hostile fire.
- H. The amounts received from the following programs:
  - Amounts received under training programs funded by HUD;
  - Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;
- I. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiative coordination, and serving as a member of the Middleborough Housing Authority's governing board. No resident may receive more than one such stipend during the same period of time;
- J. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local

government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;

*Incremental earnings and benefits* is defined as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program.

In calculating the incremental difference, the MHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058. End of participation in a training program must be reported in accordance with the MHA's interim reporting requirements.

- K. Temporary, nonrecurring, or sporadic income (including gifts);
- L. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era
- M. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- N. Adoption assistance payments in excess of \$480 per adopted child;
- O. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
- P. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- Q. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- R. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits.

These exclusions include:

- a. The value of the allotment of food stamps
- b. Payments to volunteers under the Domestic Volunteer Services Act of 1973
- c. Payments received under the Alaska Native Claims Settlement Act.  
Income from sub-marginal land of the U.S. that is held in trusts for certain Indian tribes
- d. Payments made under Low-Income Energy Assistance Program
- f. Payments received under the Job Training Partnership Act
- g. Income from the disposition of funds of the Grand River Band of Ottawa Indians
- h. The first \$2000 per capita received from judgment funds awarded for certain Indian claims
- i. Amount of scholarships awarded under Title IV including Work-Study
- j. Payments received under the Older Americans Act of 1965
- k. Payments from Agent Orange Settlement
- l. Payments received under the Maine Indian Claims Act
- m. The value of child care under the Child Care and Development Block Grant Act of 1990
- n. Payments for living expenses under the AmeriCorps Program

**D. EARNED INCOME DISALLOWANCE (EID) FOR PERSONS WITH DISABILITIES**  
**24 CFR 5.617 and 982.201(B) (3)**

The annual income for qualified families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date which the increase in earned income begins and continuing for a cumulative 12-month period. After the disabled family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

A family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member, who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any State program for TAFDC provided that the total amount over a six-month period is at least \$500. The qualifying TAFDC assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TAFDC benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of “previously unemployed” includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program including a substance abuse or mental health treatment program necessary to ready a participant to work.

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member’s income before the beginning of qualifying employment or increase in earned income

**Initial Twelve-Month Exclusion**

During the cumulative 12-month period beginning on the date a member who is a person with disabilities of a qualified family first experiences an increase in annual income attributable to employment, the MHA will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

**Second Twelve-Month Exclusion and phase-in**

The second twelve-month phase-in exclusion period will begin after the initial 12-month full exclusion ends.

During the second cumulative 12-month period the MHA must exclude from annual income of a qualified family 50 percent of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

#### **Applicability to Child Care Expense Deductions**

The amount deducted for childcare necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions.

#### **Tracking the Earned Income Exclusion**

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

##### **Such documentation will include:**

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason (new employment, participation in job training program, within 6 months after receiving TAFDC) for the increase in earned income
- Amount of the increase in earned income (amount to excluded)
- Date the increase in income if first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any)
- Date the family member has received a total of 12 months of the initial exclusion
- Date the 12-month phase-in period began
- Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)
- Date the family member has received a total of 12 months of the phase-in exclusion
- Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

#### **Interim Re-exams**

The MHA will perform an interim recertification at the beginning of the partial exclusion period.

#### **Inapplicability to Admission**

The earned income disallowance is only applied to determine the annual income of families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable

#### **E. MINIMUM RENT 24 CFR 5.616**

The Middleborough Housing Authority has set the minimum rent as \$50.00. The amount of rent a family will pay is the highest of the following:

- 30% if the family's monthly adjusted income;
- 10% of the family's monthly income; or
- \$50 minimum rent

#### **F. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT 24 CFR 982.54(d), 982.551 AND 982.312**



The MHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

**Temporarily absent** is defined as away from the unit for less than 60 consecutive days. If the entire family will be absent from the unit for more than sixty (60) consecutive days, such family must receive advance written approval from the MHA or such family will be considered absent from the unit for more than a brief period and Housing Assistance payments will be terminated. MHA approval will not be unreasonably withheld.

#### **Absence due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the MHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If verification indicates that the family member will not return within the next one hundred eighty (180) consecutive days, the family member will be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the MHA's Absence of Entire Family policy.

#### **Absence Due to Full-time Student Status**

Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household unless information becomes available to the Middleborough Housing Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

#### **Absence Due to Incarceration**

If the sole member is incarcerated for more than 90 consecutive days, s/he will be considered permanently absent.

The MHA will determine if the reason for incarceration is for drug-related or violent criminal activity.

#### **Absence of Children due to Placement in Foster Care or Residential Program**

If the family includes a child or children temporarily absent from the home due to placement in foster care or in a residential program, the MHA will determine from the appropriate agency when the child/children will be returned to the home. The child shall be considered temporarily absent (and part of the household) unless custody has been permanently transferred from the family to DCF or another person or entity.

#### **Absence of Family Member for Other Reasons**

If a family member (but not the sole member) is absent from the household for other reasons (not listed above) for more than 60 days, the head of household must report such absence to the MHA and upon MHA's request, provide verification of the temporary nature of the absence. Members temporarily absent from the household shall remain part of the household.

#### **Absence Of Entire Family**

These policy guidelines address situations when the entire family is absent from the unit, but has not moved out of the unit. In cases where the entire family has moved out of the unit, the MHA will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required both to notify the MHA before they move out of a unit and to give the MHA information about the entire family's absence from the unit for more than 60 days.

Authorized absences may include, but are not limited to:

1. Prolonged hospitalization;
2. Absences beyond the control of the family (i.e., death in the family, other family member illness);
3. Other absences that are deemed necessary by the Middleborough Housing Authority.

HUD regulations require the MHA to terminate assistance if the entire family is absent from the unit for a period of more than one hundred eighty (180) consecutive calendar days.

“Absence” means that no family member is residing in the unit

In order to determine if the family is absent from the unit, the MHA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the post office

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed one hundred eighty (180) consecutive calendar days limit.

### **CARE TAKER FOR CHILDREN**

If neither the parent nor other responsible adult remains in the household and another adult is to be brought into the assisted unit to care for the children for an indefinite period, the MHA will treat that adult as a visitor for the fourteen (14) days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the MHA will review the status at 120-day intervals.

If the court has not awarded custody or legal guardianship, but the action is in process, the MHA will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time in excess of stated period, the MHA will state in writing that the transfer of the Voucher is for that limited time or as long as they have custody of the children. The MHA will use discretion as deemed appropriate in determining any further assignation of the Voucher on behalf of the children.

When the MHA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The MHA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

### **VISITORS**

Any adult not included on the HUD 50058 who has been in the unit more than fourteen (14) consecutive days without MHA approval, or a total of twenty-one (21) days in a twelve (12) month period without MHA approval, will be considered to be living in the unit as an unauthorized household member.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the MHA will terminate assistance since prior approval was not requested for the addition.

#### **REPORTING ADDITIONS TO OWNER AND MHA**

Reporting changes in household composition to the MHA is both a HUD and MHA requirement.

Written notification of all changes shall be reported to the MHA

An interim reexamination will be conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

New family members or a family member 17 years of age or older who previously vacated the unit and requests to return, may be added upon written notification to, and approval by the MHA and the landlord. Criminal Offender Record Information (CORI), Sexual Offender Record Information (SORI) and credit reports will be obtained for any new or returning members age 17 and over. Said approval of new family member may be granted only after full and proper documentation and verification is submitted to the MHA, and the MHA determines that said person may be added as a family member and an occupant of the unit. No occupancy shall take place until the MHA has issued its determination and approval.

#### **REPORTING ABSENCES TO THE MHA**

Reporting changes in household composition is both a HUD and MHA requirement.

#### **G. AVERAGING INCOME**

When annual income cannot be anticipated for a full twelve months, the MHA may average known sources of income that vary to compute an annual income.

If there are bonuses or overtime that the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

#### **H. MINIMUM INCOME**

There is no minimum income requirement. Families who report zero income are required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

If the family's expenses exceed their known income, the MHA will make inquiry of the head of household as to the nature of the family's accessible resources. MHA must determine the source of income when the family's regular expenditures conflict with their claim of zero or minimum income. The LHA should also determine how the resident is maintaining the observed lifestyle in the absence of income. Verification may include but are not limited to: 1) a visit to the apartment to determine if the family has a vehicle, cable tv, internet service, smokes or other evidence of expenditures that require some form of income; 2) a credit report should be run to determine payments to credit cards, loans or listing of other employment; 3) MHA may request a certified IRS copy of the family's tax return(s) 4) families will be required to complete a No Income Statement. If a No Income Statement is submitted and approved by the MHA, the family shall provide verifiable documentation substantiating zero or minimum income regularly at MHA's request, at a minimum of every three (3) months.

**I. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME 24 CFR982.54 (d) (10)**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the MHA will calculate the income by using the following methodology and use the income figure, which would result in a lower payment by the family:

- Exclude the income and deductions of the member if his/her income goes directly to the facility
- OR
- Include the income and deductions of the member if his/her income goes to a family member.

**J. REGULAR CONTRIBUTIONS AND GIFTS 24CFR 5.609**

Regular contributions and gifts received from persons outside the household are counted as income for calculation of Total Tenant Payment.

If the family's expenses exceed its known income, the MHA will inquire of the family regarding contributions and gifts.

**K. ALIMONY AND CHILD SUPPORT 24CFR 5.609**

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment

If the amount of child support or alimony received is less than the amount awarded by the court, the MHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

The MHA will accept verification that the family is receiving an amount less than the award if:

- The MHA receives verification from the agency responsible for enforcement or collection through a child support enforcement/collection agency or has filed an enforcement or collection action through an attorney.

**L. LUMP-SUM RECEIPTS 24 CFR 5.609**

Many lump sum receipts are not countable income. The MHA will first determine whether or not a particular lump sum is countable. If it is countable, then the MHA shall determine the amount of retroactive tenant rent that the family owes as a result of the lump sum. The MHA uses a calculation method, which calculates retroactively or prospectively depending on the circumstances.

**Prospective Calculation of Methodology**

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in the interim adjustment calculated as follows:

- The entire lump-sum payment will be added to the annual income at the time of the interim.

**Retroactive Calculation Methodology**

- The MHA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period

**Attorney Fees**

The family's attorney fees may be deducted from lump sum payments when computing annual income if the attorney's efforts have recovered lump sum compensation and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

**M. CONTRIBUTIONS TO RETIREMENT FUNDS – ASSETS 24 CFR 5.603(d)**

Contributions to company retirement funds are handled as follows:

- While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment
- After retirement or termination of employment, count as assets any amount the employee elects to receive as a lump sum.

**N. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE 24 CFR 5.603(d) (3)**

The MHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The MHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

**O. CHILD CARE EXPENSES 24CFR 5.603**

Childcare expenses for children under thirteen (13) may be deducted from annual income if they enable an adult to work or attend school, or to actively seek employment.

- In the case of a child attending private school, only after-hour care can be counted as child care expenses

In cases where an adult family member is available to provide child care:

- Child care expenses will not be allowed as a deduction unless there is a documented reason that the family member is unable to care for the child
- Childcare expenses will be allowed as a deduction when the family chooses a non-family member provider.

Allowability of deductions for childcare expenses are based on the following guidelines:

**Child care to work:** The maximum child care expense allowed cannot exceed the amount earned by the person enabled to work which is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

**Child care for school:** The number of hours claimed for child care may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

**Amount of expense:** The MHA will survey the local care providers in the community and collect data as a guideline. If the hourly rate materially exceeds the guideline the MHA may calculate the allowance using the guideline.

**P. MEDICAL EXPENSES 24CFR 5.609(a)(2), 5.603**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS publication 502 will be used as a guide.

**Q. PRORATION OF ASSISTANCE FOR “MIXED FAMILIES” 24CFR INCOME**

**Applicability**

Proration of assistance must be offered to any “mixed” applicant or participant family. A “mixed” family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

**Prorated Assistance Calculation**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

**R. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**  
**24CFR 982.153, 982.517**

The same Utility Allowance Schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family’s actual energy consumption. The MHA uses the appropriate utility allowance for the size of the dwelling unit actually leased by the family (rather than the family voucher unit size).

The MHA’s utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

The MHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The MHA will classify utilities in the utility allowance schedule according to the following general categories:

- Heat
- Cooking
- Water heating
- Water
- Sewer
- Other electric
- Refrigerator (tenant supplied)
- Range (tenant supplied)

The MHA has determined that the majority of housing units in the market do not provide central air-conditioning or air-conditioning units. Therefore, an allowance for air- conditioning is not permitted.

The MHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family’s rent calculation at their next reexamination.

- Where the calculation on the HUD 50058 results in the housing assistance payment exceeds the rent amount due to the owner, the MHA will pay the balance of the housing assistance payment (“utility reimbursement”) directly to the utility supplier on behalf of the family (24CFR 982.514(b)). MHA will notify the family of the amount paid to the utility supplier.

The Housing Authority will approve a request for a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

## **CHAPTER 7**

### **VERIFICATION**

#### **24 CFR 982.516, 24CFR982.551, 24 CFR 5.230**

The Middleborough Housing Authority will verify information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The MHA will not pass on the cost of verification to the family.

The MHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary MHA policies.

### **PART I. GENERAL VERIFICATION REQUIREMENTS**

#### **FAMILY CONSENT TO RELEASE OF INFORMATION 24CFR 982.516 AND 982.551, 24 CFR 5.230**

The family must supply any information that the MHA or HUD determines is necessary to the administration of the program and must consent to MHA verification of that information 24CFR 982.551,

##### **Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching form specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the MHA may collect information from State Wage Information Collection Agencies (SWICAs), the Federal Enterprise Income Verification System (EIV) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

##### **Penalties for Failing to Consent (24CFR 5.232)**

If any family member who is required to sign a consent form fails to do so, the MHA may deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with MHA procedures.

#### **A. METHOD OF VERIFICATION AND TIME ALLOWED 24CFR 982.516**

The MHA will verify information through the four methods of verification acceptable to HUD in the following order:

1. Enterprise Income Verification (EIV)
2. Third party written follow-up by or oral verification if necessary
3. Review of documents
4. Self-Certification/Self-Declaration

When third-party verification or review of documents cannot make verification, families will be required to submit a notarized statement of self-certification.



### **Requirements for Acceptable Documents**

Any documents used for verification will be the original (where possible) and generally must be dated within 60 calendar days of the date they are provided to the MHA. The documents must not be damaged, altered or in any way illegible. If family requests the original, the MHA staff member who views the original document must make a photocopy, annotate the copy with the date the original was viewed and initial the copy.

### **Third-Party Written/Oral Verification**

The MHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The MHA may mail, fax, e-mail or hand deliver third-party written verification requests and will accept third party responses using any of these methods. The MHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If the response has not been received by the 11<sup>th</sup> business day, the MHA will request third-party oral verification.

When third party verification cannot be obtained, the Middleborough Housing Authority will accept documentation received from the applicant/participant. Hand carried documentation will be accepted on a provisional basis if the Middleborough Housing Authority has been unable to obtain third party verification in a two week period of time. If the MHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the re-examination, the MHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the MHA 's interim reexamination policy.

When neither third party verification nor hand-carried verification can be obtained, the Middleborough Housing Authority will accept a notarized statement signed by the head, spouse or co-head. Such documents will be maintained in the file.

## **B. COMPUTER MATCHING**

If a Section 8 participant receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought to the person responsible for income verification within ten (10) days of receipt by the participant.

The Section 8 Coordinator shall reconcile any difference between the amount reported by the participant and the amount listed in the HUD communication. This shall be done as promptly as possible.

After the reconciliation is complete, the Middleborough Housing Authority shall adjust the participant's rental contribution beginning at the start of the next month unless the reconciliation is completed during the final five (5) days of the month and then the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the participant had not previously reported the proper income, the Middleborough Housing Authority shall do one or more of the following:

1. Immediately collect the back over paid assistance paid by the agency;
2. Establish a repayment plan for the resident to pay the sum due to the agency;
3. Terminate the participant from the program for failure to report income; or
4. Terminate the participant from the program for failure to report income and collect the back over-paid assistance paid by the agency.

**C. ITEMS TO BE VERIFIED 24 CFR 982.516**

- All income not specifically excluded by the regulations
- Full-time student status including high school students who are 18 years old or over
- Current assets including assets disposed of for less than fair market value in the preceding two years
- Child care expenses
- Total medical expenses
- Disability assistance expenses
- Disability for determination of preference, allowances or deductions
- U.S. citizenship/ eligible immigrant status
- Social Security Numbers
- Preference and priority status
- Familiar/Martial status when needed for head or spouse definition.
- Verification of Reduction in Benefits for Noncompliance

**D. VERIFICATION OF INCOME 24CFR 982.516**

**Employment Income**

Verification forms request the employer to specify the:

- Dates of employment
- Amount and frequency of pay
- Date of the last pay increase
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months
- Year to date earnings
- Estimated income from overtime, tips, bonus pay expected during the next 12 months.

Applicable methods of verification include, in this order:

1. Employment verification form completed by the employer
2. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
3. W-2 forms plus income tax return forms.
4. Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further tax statements.

**Social Security, Pensions, Supplementary Security Income (SSI), Disability Income**

Acceptable methods of verification include in the order:

1. Benefit verification form completed by agency providing the benefits
2. Award or benefit notification letters prepared and signed by the providing agency.

**Unemployment Compensation**

1. Verification form completed by the unemployment compensation agency
2. Computer report electronically obtained or in hard copy from unemployment compensation agency.
3. Payment stubs

### **Welfare Payments or General Assistance**

The term "Welfare" is used throughout the Plan to include all publicly funded assistance

1. MHA verification form completed by payment provider.
2. Computer-generated Notice of Action
3. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.

### **Alimony or Child Support Payments**

1. Copy of separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
2. A notarized letter from the person paying the support
3. Copy of latest check and/or payment stubs from Court Trustee.
4. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
5. Computer printout or other verification from the Mass Department of Revenue

If payments are irregular, verification of irregularity may include:

1. A copy of the separation or settlement agreement or a divorce decree stating the amount and type of support and payment schedules.
2. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
3. A copy of Court filing for enforcement. or
4. Some other form of verification acceptable to the MHA

### **Net Income from a Business**

In order to verify the net income from a business, the MHA will review IRS and financial documents from prior years and use this information to anticipate the income for the next twelve- (12) months.

1. IRS Form 1040, including but not limited to:
  - a. Schedule C (Small Business)
  - b. Schedule E (Rental Property Income)
  - c. Schedule F (Farm Income)

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense computed using straight-line depreciation rules.

2. Audited or unaudited financial statement(s) of the business.
3. Credit report or loan application
4. Documents such as manifests, appointment books, cashbooks, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.
5. Family's self-certification as to net income realized from the business during previous years.

### **Child Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

Additional documentation may be required as follows:

- Name of person(s) whose child (children) is/are being cared for

- Phone number
- Number of hours child is being cared for
- Method of payment (cash/check)
- Amount paid
- Signature of person

If the family has filed a tax return, the family will be required to provide it.

If childcare services were terminated, a third-party verification will be sent to the parent whose child was cared for.

### **Recurring Gifts**

Letter from source stating the value of gifts, regularity (dates) of gifts and the purpose of gifts. The applicant/participant may also be required to present bank deposits and other similar evidence.

### **Zero Income Status**

Families claiming to have no income will be required to execute verification documentation to determine that forms of income such as, but not limited to, unemployment benefits, TAFDC, EAEDC, SSI, etc. are not being received by the household

The MHA may run a credit report if information is received that indicates the family has an unreported income source.

### **Foster Children and Foster Adults**

Foster child and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction (24CFR 5.603 and HUD -50059 IB, p. 13).

### **Full-Time Student 24CFR 5.603**

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

The MHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a child care deduction to enable a family member to further his or her education

Written verification from the registrar's office or other school official will be accepted.

## **E. INCOME FROM ASSETS 24CFR 982.516**

### **Savings Account Interest Income and Dividends**

Acceptable methods of verification include, in this order:

1. Account statements, passbooks certificates of deposit, or MHA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification
3. IRS form 1099 from the financial institution provided that the MHA must adjust the information to project earnings expected for the next 12 months.

### **Interest Income from Mortgages or Similar Arrangements**

1. A letter from an accountant, attorney, real estate broker the buyer or a financial institution stating interest due for the next 12 months. (a copy of the check paid by the buyer to the family is not sufficient unless the breakdown of interest and principle is shown).
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

### **Net Rental Income from Property Owned by Family**

1. IRS Form 1040 with Schedule E (Rental Income).
2. A copy of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

## **F. VERIFICATION OF ASSETS**

### **Family Assets**

The MHA will require the information necessary to determine the current cash value of the family's assets (the net amount the family would receive if the asset were converted to cash).

Acceptable verification may include any of the following:

- Verification forms, letters or documents from financial institution or broker
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate's tax statements if the approximate current market value can be deduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.

### **Assets Disposed of for less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification**

For all Certifications and Re-certifications, the MHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value, verification is required that shows:

- a. All assets disposed of for less than FMV
- b. The date they were disposed of
- c. The amount the family received
- d. The market value of the assets at the time of disposition

Third party verification will be obtained wherever possible. The MHA will use review of documents in lieu of requesting third-party verification when the market value of the individual asset or an expense is less than \$500 annually and the family has original documents that support the declared amount.

## **G. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME 24 CFR 982.516**

### **Child Care Expenses**

Written verification from the person who receives the payments is required. If the child care provider is an individual, she/he must provide a notarized statement of the amount they are charging the family for their services.

Verifications must specify the child care provider's name, address, telephone number and social security number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

### **Medical Expenses**

Families, who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. One or more of the methods listed below will verify all expense claims:

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
- For verification of insurance premiums, paystubs, employer's verification, Social Security Administration notices or other similar documentation will be required.
- Receipts for payment of prescriptions and other health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including hearing aids, wheelchairs or other disability related aids, etc.)
- A printout of prescription costs from a pharmacy accompanied by proof of payment by a Family member.
- Medical or dental bills for an elderly Family member paid and proof of payment by a Family member.

### **Attendant care**

A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and projection of the number of hours the care is needed for calculations purposes.

Attendant's written confirmation of hours of care provided, amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing services.

Receipts, canceled check, or pay stubs that verify medical costs and insurance expenses like to be incurred in the next 12 months.

Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next year.

### **Assistance to Persons with Disabilities 24CFR 5.611 (c)**

In all cases:

1. Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
2. Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

#### Attendant Care:

1. Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
2. Certification of family and attendant and/or copies of canceled check family used to make payments.

#### Auxiliary Apparatus

1. Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.
2. In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

### **H. VERIFYING NON-FINANCIAL FACTORS 24CFR 5.617 (b)(2)**

#### **Verification of Legal Identity**

In order to prevent program abuse, the MHA will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- Birth certificate, naturalization papers
- Baptismal Certificate
- Current, valid Driver's license
- U.S. Military discharge (DD214)
- U.S. passport
- Voter's registration
- Company/agency ID
- DMV ID
- Hospital Records
- Legal Permanent Residency card, Work Authorization, or other cards with photos issued by the federal government

#### **Minors**

- Birth Certificate
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

#### **Verification of Marital Status**

To be used to determine spouse for income and deduction and noncitizen purposes

- Verification of divorce status will be certified copy of the divorce decree, signed by a Court Officer.
- Verification of a separation may be a copy of court-ordered maintenance or other records.
- Verification of marriage status is a marriage certificate
- If no court document is available, documentation from a community-based agency will be accepted.

### **Familial Relationships**

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required if applicable:

- Verification of relationship:
- Marriage certificate
- Official identification showing names
- Birth certificates
- Baptismal certificates

Verification of guardianship is:

- Court-ordered assignment
- Verification from social services agency
- School records

### **Verification of Permanent Absence of Family Member**

If the family reports permanently absent an adult member who was formerly a member of the household, the MHA will consider any of the following as verification:

- Husband or wife institutes divorce action
- Husband or wife institutes legal separation
- Restraining order obtained by one family member against another
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available
- If no other proof can be provided, the MHA will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

### **Verification of Change in Family Composition**

The MHA may verify changes in family composition (either reported or unreported) through letters, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

### **Verification of Disability**

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102 (7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 (7)). Family members claiming disability who do not receive SSI or other disability payments from the SSA, must be verified by appropriate diagnostician such as a physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format. Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

### **Verification of Citizenship/Eligible Immigrant Status 24 CFR 5.508, 5.10, 5.512, 5.514**

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his or her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the MHA hearing is pending.



**Citizens or Nationals of the United States** are required to sign a declaration under penalty of perjury Prior to being admitted, or at the first reexamination. The citizenship/eligible non-citizen status of each family member regardless of age must be determined, all citizens and nationals will be required to sign a declaration under penalty of perjury. The MHA will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

- U.S. birth certificate
- U.S. passport
- Resident Alien/registration card
- Social Security card
- Military ID and or Military DD214 form

**Eligible Immigrants who were Participants and 62 or over** on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age prior to being admitted or at the first reexamination.

**Non-citizens with eligible immigration status** must signed declaration of status and verification consent form prior to being admitted or at the first reexamination and provide their original immigration documents which are copied front and back and returned to the family. The MHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the MHA must request within 10 days that the INS conduct a manual search.

**Ineligible family members** who do not claim to be citizens or eligible immigrants or whose status cannot be confirmed must be listed on a statement of ineligible family members signed by the head of household or spouse.

**Non-citizen students on student visas** are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

**Failure to Provide.** If an applicant or participant family members fails to sign required declarations and consent forms or provide documents, as required they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

**Time of Verification.** For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same as verification of other facts of eligibility at the final eligibility determination/and or at the time of initial application.

The MHA will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial MHA does not supply the documents, the MHA must conduct the determination.

#### **Acceptable Documents of Eligible Immigration**

Federal regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register:

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)

- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that show individual's entitlement has been verified.

If the MHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated and the family will remain ineligible for further assistance for a period of twenty-four (24) months, unless the ineligible individual has already been considered in prorating the family's assistance.

### **Verification of Social Security Numbers 24CFR 5.216**

Prior to admission, each family member who has a Social Security Number and who is at least six years of age must provide verification of his or her Social Security Number. New family members at least six years of age must provide this verification prior to being added to the lease. Children in assisted households must provide this verification at the first regular reexamination after turning six.

Social security numbers must be provided as a condition of eligibility for all family members age six and over if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of Social Security card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card used by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or Social Security Number from Social Security administration

If a member of a tenant family indicates they have a Social Security Number, but cannot readily provide a copy to verify it, they shall be asked to certify to this fact and shall have up to 60 days to provide the copy. No action will be taken by the MHA until all Social Security cards are provided. If the individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided for those family members who have a social security number.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the MHA will grant additional 60 calendar days to provide documentation.

### **Medical Need for Larger Unit**

Written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

## CHAPTER 8

### VOUCHER ISSUANCE AND BRIEFINGS 24CFR 982.301, 24CFR 982.302

The MHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the MHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, MHA procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

#### **A. ISSUANCE OF VOUCHERS 24 CFR 982.204(d), 24CFR 982.54 (d) (2)**

When funding is available, the MHA will issue Vouchers to applicants whose eligibility has been determined. The number of Vouchers issued must ensure that the MHA stays as close as possible to 100% lease-up within the funds provided in the Annual Contributions Contract (ACC).

The Section 8 Coordinator will perform a monthly calculation electronically/manually to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the MHA can over-issue.

#### **B. CONDUCTING BRIEFING SESSIONS 24 CFR 982.301**

1. The Section 8 Coordinator or his/her designee will conduct the briefings for families who are determined to be eligible for assistance. The briefings will be conducted in groups or individual meetings. The Section 8 Coordinator will explain how the program works and the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers

The MHA will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. If the family does not attend (no notice of inability to attend), the family will be notified in writing that the MHA has rescheduled a second and final briefing. The notice will inform the applicants that failure to attend 2 scheduled briefings, without prior notification and approval of the MHA, will result in withdrawal of their application from the waiting list and from any further consideration.

The briefing will cover at a minimum the following subjects:

- A. A description of how the program works;
- B. Family and owner responsibilities;
- C. Where the family may rent a unit, including inside and outside the Middleborough Housing Authority's jurisdiction;
- D. Types of eligible housing;
- E. For families qualified to lease a unit outside the Middleborough Housing Authority jurisdiction under portability, an explanation of how portability works;
- F. An explanation of the advantages of living in an area that does not have a high concentration of poor families; and
- G. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted

income if the gross rent exceeds the applicable payment standard.  
H. Renter's Education Training

## **BRIEFING PACKET**

During the briefing, the Middleborough Housing Authority will give the family a packet of information covering at least the following subjects:

- A. The term of the voucher and the Middleborough Housing Authority's policy on extensions and suspensions of the term. The packet will include information on how to request an extension and forms for requesting extensions;
- B. How the Middleborough Housing Authority determines the housing assistance payment and total tenant payment for the family;
- C. Information on the payment standard, exception payment standard rent areas, and the utility allowance schedule;
- D. How the Middleborough Housing Authority determines the maximum rent for an assisted unit;
- E. Where the family may lease a unit;
- F. For families qualified to lease outside the Middleborough Housing Authority's jurisdiction, the packet includes an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability;
- G. The HUD-required tenancy addendum that provides the language that must be included in any assisted lease, and a sample contract;
- H. The Request For Approval of the Tenancy form and an explanation of how to request Middleborough Housing Authority approval of a unit;
- I. The Middleborough Housing Authority's subsidy standards, including when the Housing Authority will consider granting exceptions to the standards;
- J. The HUD brochure on how to select a unit ("A Good Place to Live");
- K. The HUD-required lead-based paint brochure;
- L. Information on Federal, State, and local equal opportunity laws; the brochure "Fair Housing: It's Your Right;" and a copy of the housing discrimination complaint form and telephone numbers of the local fair housing agency and the HUD enforcement office;
- M. A list of landlords or other parties known to the Middleborough Housing Authority who may be willing to lease a unit to the family or help the family find a unit;
- N. Notice that if the family includes a person with disabilities, the family may request a current list of accessible units known to the Middleborough Housing Authority that may be available;
- O. The family's obligations under the program;
- P. The grounds upon which the Middleborough Housing Authority may terminate assistance because of the family's action or inaction;
- Q. Middleborough Housing Authority informal hearing procedures, including when the Middleborough Housing Authority is required to provide the opportunity for an informal hearing, and information on how to request a hearing;
- R. The Middleborough Housing Authority owner information brochure. This brochure can be given by the applicant to a prospective owner to help explain the program;
- S. Sample lease for owners who do not use a lease for their unassisted tenants;
- T. Housing Quality Standard (HQS) Checklist;
- U. Procedures for notifying the Middleborough Housing Authority/HUD of program abuses such as side payments, extra charges, violations of tenants rights, and owners failure to make repairs;
- V. A requirement for reporting changes between annual re-certifications.
- W. A listing of available units known to the Middleborough Housing Authority;
- X. A form for recording the family's housing search efforts.

**C. ENCOURAGING PARTICIPATION BY OWNERS IN NON POVERTY/MINORITY AREAS**

At the briefing, families are encouraged to search for housing in non-impacted areas and the MHA will provide assistance for families who wish to do so.

The assistance provided to such families may include:

- The MHA may make available information, which describes the benefits to owners renting to participants under the Federal Section 8 Program.
- The MHA has a relationship with local realtors who list properties for rent in areas of low poverty/minority concentration
- Providing families with a search records form to gather and record info.
- Direct contact with landlords
- Providing information about various services
- Meeting with neighborhood groups to promote understanding
- Formal or informal discussions with landlords
- Formal or informal discussions with social services agencies
- Meeting with fair housing groups or agencies

**D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

The MHA will give participants a copy of HUD form 903 to file a complaint.

**E. SECURITY DEPOSIT REQUIREMENTS 24 CFR 982.31**

The owner may collect a security deposit from the tenant in an amount not in excess of amounts charged in private market practice and not in excess of amounts charged by the owner to unassisted tenants and in accordance the following.

**Leases Effective Prior to October 2, 1995**

The amount of Security Deposit that could have been collected by owners is:

- The security deposit cannot exceed the greater of one-month tenant rent  
OR  
\$50, whichever is greater.

**Leases Effective on or after October 2, 1995**

The owner is not required to but may collect a security deposit from the tenant. The owner may accept a security deposit in the amount charged to private unassisted tenants. The owner is prohibited from collecting both the last month's rent and a security deposit.

In all cases, the amounts collected by a landlord for security deposit must be collected, held, and disposed of in full compliance with Massachusetts State Law.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

**F. TERM OF VOUCHER 24CFR 982.303, 24CFR 982.54(D)(11)**

The initial term of the Voucher shall be for sixty (60) calendar days from the date of issuance and the expiration date will be stated on the Housing Choice Voucher.

**All applicants MUST provide proof of housing searches.**

At the discretion of the Middleborough Housing Authority, an extension may be granted, upon receipt of a written request from the family for a reasonable accommodation. Verifiable documentation supporting the reasonable accommodation request is required. The Middleborough Housing Authority may allow suspension of your voucher for a period not exceeding thirty (30) days under certain limited circumstances once a request for lease approval has been submitted.

At the expiration of the initial term, the Housing Authority may grant one or more extensions of the term, but the initial term plus any extensions shall not exceed one hundred twenty days (120) calendar days from the initial date of issuance without an extraordinary reason.

**DELAY OF ISSUANCE**

After receipt of the Notice of Briefing session, the family may delay Issuance of Voucher for a period of up to 6 months as a reasonable accommodation. Generally, the accommodation should not fundamentally alter the Program. The MHA must receive the request for delay in writing prior to the Issuance of the Voucher.

**EXPIRATION**

The family's Voucher expires automatically on the date stated, unless the family has submitted a Request for Tenancy Approval. The family will be notified, of any adjustment to the expiration date due to tolling. The MHA does not notify the family of impending expiration. The MHA will issue written notification to the family that the voucher has expired.

The family may reapply for the program without prejudice, whenever the MHA's waiting list is opened.

**TOLLING (Voucher Expiration Time Temporarily Stopped) 24 CFR 982.303**

The MHA, at its discretion, may allow suspension of the expiration date of a Voucher. Upon submittal of a completed, accepted and approved Request for Tenancy Approval form by the family to the MHA, the voucher is "tolled". Tolling means that the Voucher will not "lose" any time while the MHA processes the Request for Tenancy Approval. If the prospective housing unit cannot be approved, the family will be issued written notification explaining that the Request for Tenancy Approval will not be approved and that their Voucher is being reactivated. The family will be informed of the Voucher revised expiration date.

In addition, vouchers will be tolled where the family files a discrimination claim against the landlord, realtor, or management agent with a court or agency of proper jurisdiction; confinement in a hospital, halfway house, substance abuse treatment program, or other temporary facility; other medical reasons which significantly limit a tenant's ability to engage in housing search; and other extenuating circumstances. Documentation will be required to be submitted to verify that the discrimination complaint is on going. This must be updated biannually. In general, the family shall submit its request and verification for tolling prior to expiration of the voucher.

**G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLD 24 CFR 982.315**

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Section 8 Coordinator shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children
- Which family member was the head of household when the Voucher was initially issued (listed on

the initial application).

- The interest of ill, elderly, or disabled family members
- Whether domestic violence was involved in the breakup
- If the sole remaining members of the household are all minors, an adult guardian of such minor children may be added to the family composition as the new “head of household.”

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the MHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

#### **H. REMAINING MEMBER OF TENANT FAMILY – RETENTION OF VOUCHER 24CFR982.315**

To be considered the remaining member of the tenant family, the person must have been previously approved by the MHA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

#### **In order for a minor child to continue to receive assistance as a remaining family member:**

- The court has to have awarded emancipated minor status to the minor or
- The MHA has to have verified that another adult has been brought into the assisted unit to care for the child (children) for an indefinite period by the Department of Social Services, Probate Court, Juvenile Court and /or other governmental agency.

A reduction in family size may require a reduction in the voucher family unit size.

## **CHAPTER 9**

### **Initial Lease-Up Procedures**

#### **A. APPROVAL OF REQUEST FOR APPROVAL OF TENANCY** **24CFR 982.302, 24CFR 982.305(b)**

When the family finds a unit that the owner is willing to lease under the program, the family and the owner shall submit the completed Request For Tenancy Approval (RFTA). The family must submit the Request For Tenancy Approval in the form and manner required by the MHA.

The terms of the HUD tenancy addendum shall prevail over any other provisions of the lease. The family will submit the request form to the Housing Authority during the term of the voucher.

It is suggested that the family submit the form in person; however the MHA will accept a RFTA through the mail. Where the family seeks to toll the voucher pending action on RFTA, the MHA will not toll the Voucher unless the RFTA is in the possession of the MHA. The MHA will not permit the family to submit more than one RFTA at a time.

Both the owner and Voucher holder must sign the Request For Tenancy Approval.

Tolling will begin only upon receipt of a completed, accepted and approved RFTA

The Housing Authority will review the request, and make an initial determination of approval of tenancy as stated below in the lease review section.

The Housing Authority may assist the family in negotiating changes that may be required for the tenancy to be approved. Once it appears the tenancy may be approved, the Housing Authority will schedule an appointment to inspect the unit as soon as possible not to exceed fifteen (15) days after the receipt of inspection request from the family and owner. The fifteen (15) day period is suspended during any period the unit is unavailable for inspection.

The initial inspections shall be on a vacant unit; applicant shall not occupy the unit until execution of all required paperwork (i.e. lease, owner contract, written notification of passed inspection). In the event that a new voucher holder elects to remain in their existing housing unit, the initial inspection may be on a non-vacant unit. A new voucher holder shall only be allowed to remain in their existing housing unit if the unit meets the allowable bedroom size and payment standard.

The Housing Authority will promptly notify the owner and the family whether the unit and tenancy are approved.

#### **Disapproval of RFTA**

If the MHA determines the Request cannot be approved for any reason, the landlord and the family will be notified in writing. The MHA will instruct the owner and family of the steps that are necessary to approve the Request.

The owner will be given ten (10) calendar days to submit a new RFTA from the date of disapproval.

When, for any reason, a RFTA is not approved, the MHA will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.



When a family submits a RFTA for the apartment they presently occupy and the apartment fails the inspection, the Section 8 Coordinator will inform the family of its right as a tenant to have the repairs made, and warn the family that the MHA will not subsidize the apartment if it does not pass inspection.

**B. ELIGIBLE TYPES OF HOUSING 24CFR 982.353, 24CFR 982.54(d) (16)**

Unless so noted under the specific housing type addressed below, special housing types shall be provided only if the provision as such serves to reasonably accommodate a person with a disability

Special Housing types include the following:

- Single Room Occupancy      24CFR 602
- Congregate Housing      24CFR 606
- Group Homes      24CFR 982.610, 612
- Units owned but not subsidized by the MHA following HUD prescribed requirements.

The MHA shall not permit a Voucher holder to lease a unit that is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

**C. INELIGIBLE/ELIGIBLE HOUSING**

The following types of housing cannot be assisted under the Section 8 Tenant-Based Program:

- A. A public housing or Indian housing unit;
- B. A unit receiving project-based assistance under a Section 8 Program;
- C. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services; College or other school dormitories;
- D. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- E. A unit occupied by its owner. This restriction does not apply to cooperatives or to assistance provided under the “Homeownership Program”.
- F. A unit receiving any duplicative Federal, State, or local housing subsidy. This does not prohibit renting a unit that has a reduced rent because of a tax credit.

**D. LEASE REVIEW 24CFR 982.308**

The MHA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State and local law. The tenant also must have legal capacity to enter a lease under State and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.

If the owner does not use such a standard lease, then the parties may use another form of lease, plus the HUD required tenancy addendum. The terms and conditions of the lease must be consistent with state and local law. The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family. The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the MHA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

The Middleborough Housing Authority will approve a lease and the Request For Tenancy Approval if all of the following conditions are met:

- A. The unit is an eligible type of housing,
- B. The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan);
- C. The lease is approved and includes the following:
  - 1. The names of the owner and the tenant;
  - 2. The address of the unit rented;
  - 3. The term of the lease (initial term and any provisions for renewal);
  - 4. The amount of the monthly rent to owner;
  - 5. A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family; and
  - 6. The required HUD tenancy addendum.
- D. The rent to owner is reasonable;
- E. The family's share of rent does not exceed 40% of their monthly adjusted income if the gross rent exceeds the applicable payment standard;
- F. The owner has not been found to be debarred, suspended, or subject to a limited denial of participation by HUD or the Housing Authority; and
- G. The family continues to meet all eligibility and screening criteria.

#### **Action Before Lease Term**

ALL of the following must always be completed before the beginning of the initial term of the lease for a unit:

- The MHA has inspected the unit and has determined that the unit satisfies HQS
- The MHA has determined that the rent charged is reasonable
- The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum
- The MHA has approved leasing of the unit in accordance with program requirements
- When the gross rent exceeds the applicable payment standard for the family, the MHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

If tenancy approval is denied, the Housing Authority will advise the owner and the family in writing and advise them also of any actions they could take that would enable the Housing Authority to approve the tenancy.

Where MHA delays for administrative reasons or otherwise, the landlord and tenant should be allowed to have the start date of the lease retroactive to date of inspection where needed to preserve tenancy.

#### **E. SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The PHA may immediately abate payment and subsequently terminate the HAP contract. When this occurs, the PHA must issue the family a new housing choice voucher and assist the family to locate another unit. If the owner was collecting side payments, the PHA must notify the owner to immediately cease collecting these payments and require repayment to the family through the PHA of the full amount illegally collected. The PHA must determine if the owner also collected side payments from other participants and follow-up to require payment. The amount can be repaid by offsetting the amount due against future housing assistance payments. The PHA may, at its discretion, terminate the affected HAP contract immediately, even if the owner has repaid amounts due the family; but it must cancel the HAP contract if the owner fails to repay the family.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the MHA.

Any appliances, services or other items that are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, as long as those charges are reasonable and not a substitute for high rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the MHA. If agreements are entered into at a later date, they must be approved by the MHA and attached to the lease.

The MHA will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

#### **F. RENT LIMITATIONS 24CFR 983.303**

The MHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private market, and the rent charged by the owner for a comparable unassisted affordable unit in the building premises. At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA

Rent Redetermination. The PHA must re-determine the reasonable rent:

- (1) Whenever there is a 10 percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR in effect 1 year before the contract anniversary.
- (2) Whenever the PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- (3) Whenever the HAP contract is amended to substitute a different contract unit in the same building or project; and
- (4) Whenever there is any other change that may substantially affect the reasonable rent.

How to determine reasonable rent.

- (1) The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units.
- (2) In determining the reasonable rent, the PHA must consider factors that affect market rent, such as:
  - (i) The location, quality, size, unit type, and age of the contract unit; and
  - (ii) Amenities, housing services, maintenance, and utilities to be provided by the owner.

#### Comparability analysis.

- (1) For each unit, the PHA comparability analysis must use at least three comparable units in the private unassisted market, which may include comparable unassisted units in the premises or project.
- (2) The PHA must retain a comparability analysis that shows how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.
- (3) The comparability analysis may be performed by PHA staff or by another qualified person or entity. A person or entity that conducts the comparability analysis and any PHA staff or contractor engaged in determining the housing assistance payment based on the comparability analysis may not have any direct or indirect interest in the property.

Owner certification of comparability. By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere.

#### Determining reasonable rent for PHA-owned units.

- (1) For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with § 983.59, rather than by the PHA. The reasonable rent must be determined in accordance with this section.
- (2) The independent entity must furnish a copy of the independent entity determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

#### Rental Increase Request

If received at least 60 days prior to re-certification, the MHA may approve a landlord's request for rent increase. The MHA may approve an increase up to \$50 per month. Each request will be reviewed separately and will include a review of improvements made to the property in the past year.

### **G. DISAPPROVAL OF PROPOSED RENT 24CFR 982.502**

In any of the programs, if the proposed Gross Rent is not reasonable, at the family's request, the MHA will negotiate with the owner to reduce the rent to a reasonable rent.

If the rent can be approved after negotiations with the owner, the MHA will continue processing the Request for Approval of Tenancy and Lease. If the revised rent involves a change in the provision of utilities, the owner must submit a new Request for Approval of Tenancy.

If the owner does not agree on the Rent to Owner after the MHA has tried and failed to negotiate a revised rent, the MHA will inform the family and owner that the lease is disapproved.

### **H. OWNER DISAPPROVAL AND RESTRICTION 24CFR 982.54, 24CFR 982.306**

See Chapter 16 on "Owner Disapproval and Restriction."

**I. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Family Share prior to the effective date of the HAP contract at admission, the information will be verified and the Total Family Share will be recalculated. If the family does not report any change, the MHA need not obtain new verification before signing the HAP Contract, even if verifications are more than 60 days old.

**J. CONTRACT EXECUTION PROCESS 24CFR 982.305 (c)**

The MHA prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and the MHA will execute the HAP Contract. Copies of the documents will be furnished to the tenant and to the parties who signed the respective documents. The MHA will retain a copy of all signed documentation.

The MHA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may be not executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

Owners must provide the current address of their residence (not a Post Office box). Owners shall appear in person at the Middleborough Housing Authority office and provide a photo ID for identification. The owner's current address will be compared to the subsidized unit's address. Families shall not lease properties owned by relatives.

Owners must provide an Employer Identification Number or Social Security Number and must also submit proof of ownership of property.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother or any family member. The MHA may waive this restriction as a reasonable accommodation for the family member who is a person with disability.

**K. CHANGE IN OWNERSHIP**

See Chapter 16 on "Owner Disapproval and Restriction".

## **CHAPTER 10**

### **HOUSING QUALITY STANDARDS AND INSPECTIONS 24CFR 982.401**

The MHA will perform Housing Quality Standards (HQS) inspections. HQS standards are required both at initial occupancy and during the term of the lease.

The Middleborough Housing Authority will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Housing Choice Voucher Program unless the HQS is met. Units will be inspected at least annually, and at other times as needed, to determine if the units meet HQS. MHA reserves the right to conduct biennial HQS inspections per HUD regulations.

#### **A. GUIDELINES / TYPES OF INSPECTIONS 24CFR 982.401(a), 24CFR 982.405**

The MHA inspector will perform all HQS inspections in accordance with 24 CFR 982.401. The MHA inspector will determine whether or not the subject unit meets all the requirements set forth in the Housing Quality Standards, State Sanitary Code and local Middleborough ordinances regarding smoke detectors.

The owner's licensed Lead Paint Inspector will conduct all lead paint tests in accordance with current HUD regulations and Massachusetts State Law. A Certificate of Full Lead Compliance must be submitted for all units to be occupied with child/ren under 6 years of age.

If the unit fails the State Sanitary Code but passes the Housing Quality Standards, the inspector may conditionally approve the unit if, after consulting the Section 8 Coordinator, and the owner agrees to make the necessary repairs within a specified period of time, the owner and the family may then enter into a lease. If the apartment fails the re-inspection, the owner will be held in violation of the lease and subsidy payments may be suspended until all cited violations are corrected.

The MHA will not promote any additional acceptability, criteria, which is likely to adversely affect the health or safety of participant families or severely restrict housing choice.

There are five types of inspections the MHA will perform:

1. Initial/Move-in: Conducted upon receipt of RFTA
2. Annual: Must be conducted within 12 months of the last annual inspection
3. Move-out/Vacate (pre 10/2/95 contracts where there could be damage claims)
4. Special/Complaint: At request of owner, family or an agency or third-party
5. Quality Control

#### **B. INITIAL/MOVE IN 24CFR 982.401(a):**

Prior to all voucher approvals for a unit, the Request for Tenancy Forms shall be submitted to the Section 8 Coordinator. Once the unit is accepted and deemed affordable, the Section 8 Coordinator will schedule the unit inspection. The Initial Housing Quality Standards (HQS) Inspection of all units shall be on a vacant unit; the new voucher holder shall not occupy a new unit until execution of all required paperwork (i.e. lease, owner contract, written notification of passed inspection). In the event that a new voucher holder elects to remain in their present housing unit, then the initial HQS inspection may be on a non-vacant unit. All inspections and findings shall be followed by a repair report and determination on rent.

The initial HQS inspection will be conducted as soon as possible but not to exceed fifteen (15) days after receipt of the Request for Tenancy Approval. The same fifteen (15) day clock will be suspended during any period when the unit is not available for inspection. The owner will be informed of the date and time of the inspection

and asked to attend the inspection. The MHA Inspector will inspect the unit, determine whether the unit satisfies the HQS and notify the family, owner and coordinator of the determination as soon as possible but not to exceed 10 working days unless the MHA determines that it is unable to do so in the stated timeframe, in which case the file will be appropriately documented. If the unit fails the initial inspection the family and owner will be advised to notify the MHA once all repairs are completed. The owner will be allowed a re-inspection for repair work to be completed. If the time period given the owner to correct the repairs has elapsed and/or the unit still fails the HQS inspection, or the owner has failed to schedule a re-inspection within 15 days, the family must select another unit.

New lease ups will be for the first of the month. All required documents must be submitted no later than the fifteenth (15th) of the previous month in order to have sufficient time to process the HAP and all necessary submittals to HUD for the first (1<sup>st</sup>) of the month.

### **Failure to Inspect (No-Show)**

As stated above, the property owner will be notified of the initial inspection which will be scheduled directly with the MHA inspection company. If the property owner or its representative fails to show for the scheduled inspection or does not allow access to the unit, another inspection appointment will be scheduled. The unit must be inspected before the family is allowed to move into the unit. The property owner will be assessed the inspection fee that the MHA is charged from the inspection company. This fee will be deducted from their first Housing Assistance Payment.

### **C. ANNUAL HQS INSPECTION 24CFR 982.405(a):**

The MHA will conduct annual inspections in accordance with HUD HQS requirements. MHA does reserve the right to conduct biennial HQS inspections per HUD regulations. Inspections will be conducted at least 30 days prior to one year date of the last annual inspection. The landlord must correct HQS deficiencies, which cause a unit to fail, unless it is a fail for which the tenant is responsible. The family must allow the MHA to inspect the unit at reasonable time with reasonable notice per 24CFR 982.51 (d). The MHA Inspector will notify the family and owner in writing at least 14 days prior to the inspection.

**Inspection:** The family and owner are notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 30 days. If the family does not contact the MHA's inspection company to reschedule the inspection or if the family misses 2 inspection appointments, the MHA will consider the family to have violated a Family Obligation and their assistance may be terminated in accordance with the termination procedures in the Plan. The family will be allowed to miss one appointment without violating a family obligation. MHA will charge a re-inspection fee if a re-inspection has been scheduled and the inspection reveals that the deficiency still persists

### **Re-inspection**

The family and owner are provided a notice of the inspection appointment by Mail. If the family is not at home for the re-inspection appointment, another appointment is automatically scheduled. The appointment letter contains a warning of abatement (in the case of owner responsibility).

### **Time Standards for Repairs**

Emergency items which endanger the family's health or safety must be corrected by the owner with 24 hours of notification.

For non-emergency items, repairs must be made with 30 days.

Repair of refrigerators, range and oven, or a major plumbing fixture supplied by the owner must be corrected within seventy-two (72) hours.

For major repairs the inspector, after consulting with the Section 8 Coordinator may approve an extension beyond 30 days.

**D. SPECIAL/COMPLAINT: 24CFR 982.405 (c).**

The owner/family may request that MHA perform an inspection to the unit to ensure that the unit is maintained in a manner consistent with HUD's HQS.

The MHA will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

**E. QUALITY CONTROL 24CFR 982.405(b)**

Quality Control inspections will be performed by the Area Project Manager or Director of Field Operations at McCright Inspection Company, McCright Inspectional Services. Quality Control inspections will be completed on the number of files required by SEMAP. The purpose of Quality Control is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in the application of HQS.

**F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS 24CFR 982.401 (a)**

The MHA adheres to the acceptability criteria in the program regulations and local codes.

**Local Codes**

The Middleborough Housing Authority will utilize the acceptability criteria as outlined above with applicable State and local codes. Pursuant to state and local codes, the Middleborough Housing Authority requires the following criteria (Refer to Massachusetts State Sanitary Code for full text):

- A. In each room used for sleeping, there will be at least one exterior window that can be opened and that contains a screen.
- B. Adequate heat shall be considered to be 68 degrees.
- C. No double-keyed deadbolt locks.
- D. Require storm windows or 2 panels of glass on all windows.
- E. In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption, or comply with the State Sanitary Code.

**G. EMERGENCY REPAIR ITEMS 24CFR 982.401 (a)**

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector.

- Lack of security for the unit
- Waterlogged ceiling in imminent danger of falling
- Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem which could result in shock or fire
- No heat (must be supplied every day during the period from September 15<sup>th</sup> to June 15<sup>th</sup>).
- Utilities are not in service
- No running hot water
- Broken glass where someone could be injured
- Obstacle which prevents tenant's entrance or exit
- Lack of functioning toilet



If the emergency repair item(s) are not corrected in the time period required by the MHA and the owner is responsible, the housing assistance payment will be abated and the HAP contract may be terminated.

If the emergency repair item(s) are not corrected in the time period required by the MHA, and it is an HQS breach, which is a family obligation, the MHA may terminate the assistance to the family.

### **Smoke Detectors**

Inoperable smoke detectors are a serious health threat and will be treated by the MHA as emergency (24-hour) fail item.

### **Lead Paint**

A certified Lead Paint Inspector will inspect for dangerous levels of lead based paint in areas accessible to children under 6 years of age. If dangerous levels of lead based paint are detected in areas accessible to children under 6 years old, all hazards must be abated prior to lease-up. Current Commonwealth of Massachusetts and HUD regulations regarding local paint hazards apply. The owner will have to present the MHA with a Certificate of Lead Hazard Abatement or other similar document or letter for any unit to be occupied by a child under 6 years old. The representation of any certifications to the MHA does not abrogate the owner's responsibility to maintain all painted surfaces and keep them free of chipping and peeling paint in areas accessible to children under 6 years old.

## **H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**

### **24 CFR 982.405, 982.453**

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the MHA. The assistance payment will be abated if the repairs are not made in the specified time.

### **Abatement**

The MHA will inspect abated failed units within ten (10) days of the owner's notification that the work has been completed.

If the owner makes repairs during the specified repair period, payment will continue on the day the unit passes inspection. If the owner fails to make repairs during this period, payment will be abated effective the thirty first (31st) day following the initial failed inspection.

The MHA will advise owners of their responsibility to notify the tenant of when the re-inspection will take place.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the MHA portion of the rent that is abated.

### **Termination of Contract**

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice and the tenant will be provided with appropriate referrals to local legal services and the Board of Health organization(s). Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by the MHA if the tenant chooses to remain in the unit. Only one HQS inspection will be conducted after the termination notice is issued.

**I. DETERMINATION OF RESPONSIBILITY 24CFR 982.404, 24CFR 982.54(d) (14)**

The family is responsible for a breach of the HQS that is caused by any of the following:

- a. The family fails to pay for any utilities that are required by the lease;
- b. The family fails to provide and maintain any appliances that are required by the lease; or
- c. Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary wear and tear).

If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than thirty (30) calendar days (or any Middleborough Housing Authority approved extension).

Where the MHA determines that the participant has caused an HQS breach, the MHA will give the participant written notice of the basis for such determination and an opportunity for an informal hearing with the MHA to contest such determination.

If the family has caused a breach of the HQS, the Middleborough Housing Authority will take prompt and vigorous action to enforce the family obligations. If the repair(s) or correction(s) are not made in the specified time period, including any extensions by the MHA, then the Middleborough Housing Authority may terminate assistance for the family in accordance with 24 CFR 982.552.

## Chapter 11

### **OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS** **24CFR 982.505, 24CFR 982.503, 24CFR 982.504, 24CFR 982.505**

#### **A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

The rent to owner is limited only by rent reasonableness. The MHA must demonstrate that the Rent to Owner is reasonable in comparison to rent for other comparable unassisted units. In making a rent reasonableness determination, the Housing Authority will compare the rent for the unit to the rent of comparable units in the same or comparable neighborhoods.

A limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or move to a different unit, the family share may not exceed 40% of the family's monthly-adjusted income.

During the initial term of the lease, the owner may not raise the rent to owner.

#### **B. MAKING PAYMENTS TO OWNERS 24CFR 982.451**

Once the HAP Contract is executed, the MHA begins processing payment to the landlord. The Section 8 Coordinator will use a HAP Register as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Payments are disbursed by the Section 8 Department to the owner each month.

#### **Excess Payments**

The total of rent paid by the tenant plus the MHA housing assistance payment to the owner shall not exceed the contract rent as stated on the HUD Amendment to the Housing Assistance Payment Contract. The owner must immediately return any excess payment to the MHA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the MHA" chapter of this Administrative Plan.

#### **C. RENT REASONABLENESS DETERMINATIONS 24CFR 982.507**

The MHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the MHA.

The MHA will request the owner to provide information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered from newspapers, realtors, inquiries of owners, market surveys and other available sources.

The market areas for rent reasonableness are within the MHA jurisdiction. Subject units with a defined housing market area will be compared to similar units with the same area.

The owner must certify the rents charged for other units. By accepting the housing assistance payment each month the owner is certifying that the rent to owner is not more than the rent charged by the owner for comparable unassisted units in the premises.

The MHA will not approve a lease until the MHA determines that the initial rent to owner is a reasonable rent. Reasonableness, which is based upon voucher size, is determined prior to the initial lease and at the following times:

- A. Before any increase in rent to owner is approved;
- B. If 60 days before the contract anniversary date there is a 5% decrease in the published FMR as compared to the previous FMR; and
- C. If the Housing Authority or HUD directs that reasonableness be re-determined.

The following items, as appropriate, will be utilized in determining for rent reasonableness:

- 1. Size (number of bedrooms/square footage)
- 2. Location
- 3. Quality
- 4. Amenities (bathrooms, dishwasher, AC, etc.
- 5. Housing Services
- 6. Age of unit
- 7. Unit type
- 8. Maintenance
- 9. Utilities

#### **Rent Reasonableness Methodology**

The MHA utilizes a rent reasonableness system, which includes and defines the HUD factors listed above. The system has a total point count which is divided into rating categories.

#### **D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM 24CFR 982.503**

The Statute requires that the payment standard be set by the Housing Authority at between 90% and 110% of the FMR without HUD's prior approval. The Middleborough Housing Authority will review its determination of the payment standard annually after publication of the FMRs. The Middleborough Housing Authority will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of voucher holders in finding units, and the percentage of annual income that families are paying for rent under the Housing Choice Voucher Program. If it is determined that success rates will suffer or that families are having to rent low quality units or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships. The MHA will also consider HUD funding availability when determining the payment standard.

The payment standard based on the Fair Market Rent (FMR) published by HUD or the exception payment standard rent (requested by the Middleborough Housing Authority and approved by HUD) determines the maximum subsidy for a family.

For the Housing Choice Voucher Program, the minimum payment standard will be 90% of the FMR and the maximum payment standard will be 110% of the FMR without prior approval from HUD, or the exception payment standard approved by HUD.

If success levels are projected to be extremely high and rents are projected to be at or below 30% of income, the Housing Authority will reduce the payment standard. Payments Standards will also be reduced due to reduced

or lack of available funding from HUD. Payment standards for each bedroom size are evaluated separately so that the payment standard for one bedroom may increase or decrease while another remains unchanged. The Middleborough Housing Authority may consider adjusting payment standards at times other than the annual review when circumstances warrant.

Before increasing any payment standard, the Housing Authority will conduct a financial feasibility test to determine the impact projected subsidy increases would have on funding available for the program and upon the number of families served in order to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

#### **Selecting the Correct Payment Standard for a Family**

- A. For the voucher tenancy, the payment standard for a family is the lower of:
  - 1. The payment standard for the family voucher size; or
  - 2. The payment standard for the unit size rented by the family.
  - 3. The MHA will seek an individual exception rent above the 110% payment standard where requested as a reasonable accommodation.
- B. If the unit rented by a family is located in an exception rent area; the Housing Authority will use the appropriate payment standard for the exception rent area.
- C. During the HAP contract term for a unit, the amount of the payment standard for a family is the higher of:
  - 1. The initial payment standard at the beginning of the lease term; or
  - 2. The payment standard as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.
- D. At the next annual reexamination following a change in family size or composition during the HAP contract term and for any reexamination thereafter, paragraph C above does not apply.
- E. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination.

#### **E. Area Exception Rents 24CFR 982.503**

In order to help families find housing outside areas of high poverty or when voucher holders are having trouble finding housing for lease under the program, the Housing Authority may request that HUD approve an exception payment standard rent for certain areas within its jurisdiction. The areas may be of any size, though generally not smaller than a census tract. The Housing Authority may request one such exception payment standard area or many. Exception payment standard rent authority may be requested for all or some unit sizes, or for all or some unit types. The exception payment standard area(s) may not contain more than 50% of the population of the FMR area.

When an exception payment standard rent has been approved and the FMR increases, the exception rent remains unchanged until such time as the Housing Authority requests and HUD approves a higher exception payment standard rent. If the FMR decreases, the exception payment standard rent authority automatically expires.

#### **F. Rent Increases**

Rent increases to owners may not be approved if the unit is in a failed condition.

No unit that fails HQS can be leased under the Section 8 Program until all HQS items are corrected

A rent increase will only be considered at the time of the tenant's annual recertification/ lease anniversary date.

The owner may request a rent increase by sending a written request to the Middleborough Housing Authority a minimum of one hundred and twenty (120) days prior to the effective date of the proposed rent increase. The landlord will be notified in writing at least ninety days (90) in advance of the anniversary date that the increase has been approved or denied (copy sent to tenant). The tenant shall be notified of the rent increase a minimum of sixty days (60) prior to the annual recertification/ lease anniversary date.

If the landlord is requesting a rent increase, the MHA will:

- Test rent reasonableness
- Notify the tenant of landlord's request for rent increase. This notification will contain:
  - Proposed rent
  - Present income
  - 30% of adjusted monthly income
  - Proposed rent plus utilities
  - Payment Standard
  - Estimated tenant share based on current figures

The tenant will be informed that the figures are estimated and may change when documentation is provided for income and family composition. The tenant will be informed of their right to choose not to accept. The tenant will be asked to sign and return to MHA by a time certain if choosing to accept the new terms.

The MHA will notify in writing both landlord and tenant if rent increase is approved or denied.

## Chapter 12

### RECERTIFICATIONS 24CFR 982.516

At least annually the Middleborough Housing Authority will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family subsidy is correct based on the family unit size.

The Middleborough Housing Authority will send a notification letter to the family letting them know that it is time for their annual reexamination and scheduling an appointment. The letter includes forms for the family to complete and submit to MHA within thirty (30) calendar days. The family must provide all information regarding income, assets, expenses, and other information necessary to determine the family's share of rent. The family shall sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the Middleborough Housing Authority will determine the family's annual income and will calculate their family share.

#### A. ANNUAL ACTIVITIES 24CFR 982.516, 24CFR 982.405

There are three activities the MHA must conduct on an annual basis and which must be coordinated whenever possible:

- Recertification of Income and Family Composition
- HQS Inspection
- Rent to Owner adjustment

The Section 8 Coordinator produces a monthly listing of units under contract to ensure that timely review of rent to owner, housing quality and factors related to Total Tenant Payment/Family share can be made. Requests for rent adjustments and other monetary changes will be transmitted to the respective coordinators.

#### B. ANNUAL REEXAMINATION 24 CFR 982.516

- Families are required to be recertified at least annually.
- All adult members of the household age eighteen (18) or older shall provide all required and requested information
- All adult members of the household age eighteen (18) or older shall sign all annual documentation
- If the family submits an incomplete Continued Occupancy packet, the family will be sent a letter documenting what is needs to be completed and what documentation is missing.
- If the family fails to submit all required documentation within seven (7) calendar days, a Notice of Termination will be sent to the family

#### Moves Between Reexaminations

When families move to another dwelling unit:

- An annual recertification will be scheduled and the anniversary date will be changed.

### **Reexamination Notice to the Family**

The MHA will maintain a reexamination tracking system and the household will be notified by mail of the date at least 90 days in advance of the anniversary date and asked to forward required documents by a date certain. If requested as an accommodation by a person with a disability, the MHA will provide the notice in an accessible format. The MHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. The MHA will permit the family to come in at a mutually agreeable time and date on or before the requested return date.

### **Completion of Annual Recertification**

The MHA will have all re-certifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least thirty (30) days before any scheduled date of any increase in family rent.

### **Persons with Disabilities**

Persons with disabilities who are unable to come to the MHA's office may be granted an accommodation to conduct the interview by mail, upon verification that the accommodation requested meets the need presented by the disability.

### **Failure to Respond to Notification to Recertify**

The written notification will state the date documentation must be returned. The family must request an extension prior to the documentation return date. The MHA may grant an extension up to 7 calendar days. If the family fails to respond by the second date, the MHA will send notice of termination and offer them an informal hearing.

### **Documents Required from the Family**

In the notification letter to the family, the MHA will include instructions for the family to complete the Continued Occupancy and to sign all documents. The packet may be mailed or dropped off at the MHA office within the thirty (30) days as stated in the notification letter. Forms and information that participants must provide includes, but is not limited, to the following:

- Application for Continued Occupancy
- Documentation of all income and assets, legible and verifiable
- Documentation of any deductions or allowances
- Copy of utility bills
- Copy of tax return
- Other signed certifications

### **Verification of Information**

The MHA will follow the verification procedures and guidelines described in the Plan. Verifications for reexaminations must be less than 60 days old.

### **C. Reporting Interim Household Changes 24CFR 982.516**

Program participants must report all changes in household composition to the MHA between annual reexaminations. This includes additions due to birth, adoption and changes in custody. The family must obtain MHA approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The MHA will conduct a reexamination to determine such additional income and will make the appropriate



adjustments in the housing assistance payment and family unit size. New family members, a family member that has reached age 17, or a family member who previously vacated the unit and requests to return may be added upon written notification to, and approval by the MHA and the landlord. All new and/or returning family members over the age of 17 shall be screened consistent with the initial application qualification process as stated in Chapter 7 above. This includes third party verification of income, assets, rental history, credit report, Criminal Offender Record Information (CORI) and Sexual Offender Record Information (SORI) etc. Approval of a new family member to the household shall be granted only after full and proper documentation and verification is submitted to the MHA, and the MHA determines that the person may be added as a family member and an occupant of the unit. This determination, may take into consideration among other things, the reasons for denial or termination of assistance set forth in this plan, as well as the necessity for any landlord written approval thereof. No occupancy shall take place until the MHA has issued its determination and approval.

The U.S. Citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular certification after moving into the unit.

### **Interim reexamination Policy**

#### **Increases in Income**

The MHA will conduct interim reexaminations when families have an increase in income of more than 10% from that reported at the last annual or interim reexamination. If the participant has submitted an annual or interim recertification within the past three (3) months, a new interim reexamination will not be completed

Families will be required to report all increases in income of more than 10% within 10 working days of the increase. Families will not be required to report any decreases in allowable expenses between annual reexaminations.

Unless there is a delay in the reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date the income increase began (even if this means a retroactive increase).

#### **Decreases in Income**

Participants may report a decrease in income and other changes, which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The MHA must calculate the change if a decrease in income is reported. If the participant has submitted an annual or interim recertification within the past three (3) months, a new interim reexamination will not be completed

If the new rent is a reduction and any delay in reporting or verifying is beyond the control of the family, the reduction will be effective the first of the month after the decrease in income.

If the new rent is a reduction and the family caused the delay, the change will be effective the first of the month after the verification of the income decrease is provided to the MHA.

### **MHA ERROR**

If the MHA makes a calculation error at admission to the program or at an annual reexamination or interim reexamination, an interim re-exam will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families may be given decreases when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

#### **D. SPECIAL REEXAMINATIONS**

If a family's income is too unstable to project for twelve (12) months, including families that temporarily have no income or have a temporary decrease in income, the Middleborough Housing Authority may schedule special reexaminations at least every ninety (90) days until the income stabilizes and an annual income can be determined

#### **E. CHANGES RESULTING FROM WELFARE/PUBLIC ASSISTANCE PROGRAM REQUIREMENT**

The term "Welfare" is used hereinafter to include all publicly funded assistance. The MHA will not reduce the rental contribution for families whose welfare and/or any public assistance is reduced specifically because of:

- Fraud by a family member in connection with the assistance program;
- Failure to participate in an economic self-sufficiency program
- Noncompliance with the work activities requirement.
- Non-compliance with any other program requirement resulting in decrease in assistance

#### **Definition of Covered Family**

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

#### **Definition of "Imputed Welfare Income"**

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.

A family's annual income includes imputed welfare income in family annual income, as determined at an interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the Middleborough Housing Authority by the welfare agency).

The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

The Middleborough Housing Authority will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the Section 8 Coordinator will review the calculation for accuracy. If the imputed welfare income amount is correct, the MHA will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;
- A statement that the family may request an informal hearing if they do not agree with the MHA determination.

#### **Verification Before Denying a Request to Reduce Rent**

The MHA will obtain written verification from the public agency stating that the family's benefits have been reduced due to fraud or noncompliance with agency's economic self-sufficiency, work activities or other program requirements before denying the family's request for a rent reduction.

The MHA will rely on the public agency's written notice to the MHA regarding sanctions unless such notice has been appealed by the tenant.

### **COOPERATING WITH WELFARE AGENCIES 24CFR 5.613**

The Middleborough Housing Authority will make its best efforts to enter into cooperation agreements with public agencies under which the agencies will agree:

- A. To target assistance benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency.
- B. To provide written verification to the Middleborough Housing Authority concerning benefits for families applying for or receiving assistance in our housing assistance programs.

### **F. NOTIFICATION OF RESULTS OF RECERTIFICATIONS (HUD Notice PIH 98-6)**

The HUD 50058 will be completed and transmitted as required by HUD. The Notice of Rent Change is mailed to the owner and the tenant. Signatures are required by the MHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

### **G. CONTINUANCE OF ASSISTANCE FOR “MIXED” FAMILIES 24CFR 5.518**

Under the Non-citizen Rule, “mixed” families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The Non-citizens Rule was implemented on or after November 29, 1996, and mixed families may receive prorated assistance, continued assistance, or temporary deferral of assistance as allowed by law.

### **I. MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the MHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

## Chapter 13

### **MOVES WITH CONTINUED ASSISTANCE/PORTABILITY** **24CFR 982.314, 24CFR 982.353, 24CFR 982.355 (a)**

#### **A. ALLOWABLE MOVES**

A family may move to a new unit with continued assistance if:

- The assisted lease for the old unit has terminated because the MHA has terminated the HAP contract for owner breaches, or the lease was terminated by mutual agreement of the owner and the family.
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

#### **B. RESTRICTION ON MOVES 24CFR 982.314, 24CFR 982.552(a)**

- Families will not be permitted to move during the initial year of assisted occupancy.
- Families will not be permitted to move more than once in a 12-month period
- The MHA will deny permission to move if there is insufficient funding for continued assistance.
- The MHA may deny permission to move if:
  - ❖ The family has violated a Family Obligation
  - ❖ The family owes the MHA money
  - ❖ The family owes money to the landlord and/or utility company(s)

The Section 8 Coordinator may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

#### **C. PROCEDURE FOR MOVES 24CFR 982.314**

##### **1. Briefing:**

All families who are moving, including any families moving into or out of the Middleborough Housing Authority's jurisdiction, may be required to attend a re-briefing before a new HAP contract can be executed on their behalf depending in part on when the family last attended a briefing.

##### **2. Issuance of Voucher**

HUD requires a voucher to move to be submitted. Subject to the restrictions on moves, if the family has not been recertified within the last 120 days the MHA will issue the voucher to move after conducting the recertification. This should be conducted as soon as the family requests the move. The family may be encouraged to attend another briefing session and the MHA will provide the family with another briefing packet.

Only one Request for Tenancy Approval form will be issued to a voucher holders

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits or the family is otherwise allowed to remain in accordance with the law.

**3. Notice Requirements**

Except where the owner has terminated the tenancy, the family must give the owner the required number of day's written notice of intent to vacate specified in the lease and must give a copy to the MHA simultaneously. Before approving a move, MHA requires a "Notice to Vacate" form to be completed which includes the following information:

- date they will be vacating
- signed by the tenant
- signed by the landlord confirming the voucher holder is a tenant in good standing.

**4. Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy. Assistance will start on the new unit on the effective date of the lease and contract.

Assistance payments may not overlap for the month in which the family moves; only one HAP will be paid to one landlord on behalf of a tenant.

**D. PORTABILITY 24CFR 982.353**

Portability applies to families moving out of or into the MHA's jurisdiction within the United States and its territories.

**E. OUTGOING PORTABILITY 24 CFR 982.353, 24CFR 982.355**

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the MHA's jurisdiction, anywhere in the United States, and in the jurisdiction of the MHA. When a family requests to move outside of the MHA's jurisdiction, the request must specify the area to which the family wants to move.

**F. RESTRICTION ON PORTABILITY**

**Applicant**

Upon initial issuance of a voucher the family must be income eligible under the receiving LHA income limits during the initial twelve (12) month period after admission to the program.

**Participant**

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstance:

- If the family's move relates to an opportunity for education, job training or employment.
- If the family is in compliance with the Family Obligation under the Federal Section 8 Program
- Written authorization/approval from the landlord agreeing to termination the lease

The MHA shall not permit families to exercise portability:

- If the family is in violation of any Family Obligation under the Federal Section 8 Program
- If the family owes money to the MHA
- If the family has moved out of its assisted unit in violation of the lease.

**G. INCOMING PORTABILITY 24CFR 982.354, 24CFR 982.355**

**1. Absorption or Administration**

When the MHA does not absorb the incoming voucher, it will administer the Initial PHA's Voucher and the MHA's policies will prevail.

- CORI, SORI & credit check will be completed on all family members 17 years of age or older

**2. Requests for Approval of Tenancy**

When the Family submits a Request for Tenancy Approval, it will be processed using the MHA's policies.

The MHA will notify the initial PHA if the family fails to submit a request for approval of tenancy for an eligible unit within the term of the voucher.

If the family does not submit a RFTA or does not execute a lease, the initial PHA will be notified within a reasonable amount of time.

If the family leases up successfully, the MHA will notify the initial PHA within thirty (30) calendar days and the billing process will commence.

If the MHA denies assistance to the family, the MHA will notify the initial PHA within ten (10) calendar days and the family will be offered a review or hearing.

The MHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the MHA jurisdiction under continued portability.

**INCOME ELIGIBILITY**

- A. A family must be income-eligible in the area where the family first leases a unit with assistance in the Voucher Program.
- B. If a portable family is already a participant in the Initial Housing Authority's Voucher Program, income eligibility is not re-determined.

**H. PORTABILITY: ADMINISTRATION BY RECEIVING HOUSING AUTHORITY**

- A. When a family utilizes portability to move to an area outside the Initial Housing Authority jurisdiction, another Housing Authority (the Receiving Housing Authority) must administer assistance for the families if that Housing Authority has a tenant-based program covering the area where the unit is located
- B. A Housing Authority with jurisdiction in the area where the family wants to lease a unit must issue the family a voucher. If there is more than one such housing authority, the Initial Housing Authority may choose which housing authority shall become the Receiving Housing Authority.

## **I. PORTABILITY PROCEDURES**

When the Middleborough Housing Authority is the Initial Housing Authority:

- The Middleborough Housing Authority will brief the family on the process that must take place to exercise portability. The family will be required to attend an applicant or mover's briefing.
- The Middleborough Housing Authority will determine whether the family is income-eligible in the area where the family wants to lease a unit (if applicable).
- The Middleborough Housing Authority will advise the family how to contact and request assistance from the Receiving Housing Authority.
- The Middleborough Housing Authority will, as soon as possible but not to exceed ten (10) calendar days, notify the Receiving Housing Authority to expect the family.
- The Middleborough Housing Authority will immediately mail to the Receiving Housing Authority the most recent HUD Form 50058 (Family Report) for the family, and related verification information.

When the Middleborough Housing Authority is the Receiving Housing Authority:

- When the portable family requests assistance from the Middleborough Housing Authority, the Middleborough Housing Authority will within ten (10) calendar days inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable family, or absorb the family into its own program. When the Middleborough Housing Authority receives a portable family, the family will be absorbed only if funds are available and a voucher can be issued.
- Upon receipt of the HUD-50058 form and the portability packet from the initial PHA, the MHA will complete the CORI, SORI and credit checks and review the file for compliance.
- The Middleborough Housing Authority will issue a voucher to the family. The term of the Middleborough Housing Authority's voucher will not expire before the expiration date of any Initial Housing Authority's voucher. The Middleborough Housing Authority will determine whether to extend the voucher term. The family must submit a request for tenancy approval to the Middleborough Housing Authority during the term of the Middleborough Housing Authority's voucher.
- The Middleborough Housing Authority will determine the family unit size for the portable family. The family unit size is determined in accordance with the Middleborough Housing Authority's subsidy standards.
- The Middleborough Housing Authority will, within ten (10) calendar days, notify the Initial Housing Authority if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.
- If the Middleborough Housing Authority opts to conduct a new reexamination, the Middleborough Housing Authority will not delay issuing the family a voucher or otherwise delay approval of a unit unless the re-certification is necessary to determine income eligibility.
- In order to provide tenant-based assistance for portable families, the Middleborough Housing Authority will perform all Housing Authority program functions, such as reexaminations of family income and composition. At any time, either the Initial Housing Authority or the Middleborough

Housing Authority may make a determination to deny or terminate assistance to the family in accordance with 24 CFR 982.552.

- The Middleborough Housing Authority may deny or terminate assistance for family action or inaction in accordance with 24 CFR 982.552 and 24 CFR 982.553.

#### Absorption by the Middleborough Housing Authority

If funding is available under the consolidated ACC for the Middleborough Housing Authority's Voucher Program when the portable family is received, the Middleborough Housing Authority may absorb the family into its Voucher Program. After absorption, the family is assisted with funds available under the consolidated ACC for the Middleborough Housing Authority's Tenant-Based Program.

#### Portability Billing

To cover assistance for a portable family, the Receiving Housing Authority may bill the Initial Housing Authority for housing assistance payments and administrative fees. The billing procedure will be as follows:

- As the Initial Housing Authority, the Middleborough Housing Authority will promptly reimburse the Receiving Housing Authority for the full amount of the housing assistance payments made by the Receiving Housing Authority for the portable family. The amount of the housing assistance payment for a portable family in the Receiving Housing Authority's program is determined in the same manner as for other families in the Receiving Housing Authority's program.
- The Initial Housing Authority will promptly reimburse the Receiving Housing Authority for 80% of the Initial Housing Authority's on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs and is assisted by the Receiving Housing Authority. If both Housing Authorities agree, reimbursement amounts may be negotiated.

#### When a Portable Family Moves

When a portable family moves out of the tenant-based program of a Receiving Housing Authority that has not absorbed the family, the Housing Authority in the new jurisdiction to which the family moves becomes the Receiving Housing Authority, and the first Receiving Housing Authority is no longer required to provide assistance for the family.

#### Billing Procedures

As the receiving PHA the MHA will bill the initial PHA for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and Special Claims will be at the initial change for each unless requested otherwise by the Initial PHA.

The MHA will bill 100% of the Housing Assistance payment, 100% of Special Claims and 80% of the Administrative Fee (at the initial PHA's rate) for each "Portability" Voucher leased as of the first day of the month.

The MHA will notify the Initial PHA of changes in subsidy amounts and will expect the Initial PHA to notify the MHA of changes in the Administrative Fee Amount to be billed.



## Chapter 14

### **CONTRACT TERMINATIONS** **24CFR 982.311, 24CFR 982.314**

#### **A. CONTRACT TERMINATION 24CFR 982.311**

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the MHA may be terminated by the MHA or by the owner or tenant terminating the lease. No future subsidy payments on behalf of the family will be made by the MHA to the owner after the month in which the Contract is terminated. The owner must immediately reimburse the MHA for any subsidies paid by the MHA for any period after the contract termination date.

The owner will have no right to claim compensation from the MHA for vacancy loss under the provisions of certificate HAP Contracts effective before October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit.

During the initial term of the lease, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do (see 982.310).

#### **B. Termination by the Family: Moves 24CFR 982.314(C) (2)**

Family termination of the lease must be in accordance with the terms of the lease.

#### **C. TERMINATION OF TENANCY BY THE OWNER; EVICTION** **24CFR 982.310, 24CFR 982.455**

If the owner wishes to terminate the lease, the owner is required under the lease, to provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations. During the term of the lease the owner may only evict for:

- Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violations of the terms and conditions of the lease;
- Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or Criminal activity by the tenant, any member of the household, a guest or another person under the tenant’s control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises;
- Other good cause.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or Local law to commence an eviction action.

As long as the unit is in compliance with HQS and state sanitary codes, the MHA will continue housing assistance payments until the family moves or is evicted from the unit. By endorsing the monthly check from the MHA the owner certifies that the tenant is still in the unit, the rent is reasonable and he/she is in compliance with the contract.

If an eviction is not due to a serious violation of the lease, and if the MHA has no other grounds for termination of assistance, the MHA may issue a new voucher so that the family can move with continued assistance.

**D. TERMINATION OF THE HAP CONTRACT BY MHA**

**24 CFR 982.404(a), 24 CFR 982.453, 24 CFR 982.454, 24 CFR 982.552 (a)(3)**

The term of the HAP Contract terminates when the lease terminates, when the MHA terminates Program assistance for the family, and when the owner has breached the HAP contract.

The MHA may also terminate the contract if:

- The family is required to move from a unit when the subsidy is too big for the family size or the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
- Funding is no longer available under the ACC.

The contract will terminate automatically if one hundred eighty (180) days have passed since the last housing assistance payment to the owner.

When the MHA terminates the HAP contract under the violation of HQS space standards, the MHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the MHA gives such notice to the owner.

## Chapter 15

### DENIAL OR TERMINATION OF ASSISTANCE

#### **24CFR 5.902.5, 24 CFR 903.5, 24 CFR905, 24 CFR 982.4, 24 CFR 982.54, 24 CFR 982.552, 24 CFR 982.553, 24 CFR 985.553**

The MHA may deny or terminate assistance for a family because of the family's action or failure to act. The MHA will provide families with a written description of the family obligations under the program, the grounds under which the MHA can deny or terminate assistance, and the MHA's informal hearing procedures.

#### **A. GROUND FOR DENIAL AND TERMINATIONS** **24CFR 982.54, 24 CFR 982.552, 24 CFR 982.553**

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the MHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a tenancy
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a tenancy
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

#### **Mandatory denial and termination**

##### **24CFR 982.54, 24 CFR 982.552, 24 CFR 982.553 – see these CFRs for more detail**

1. The MHA must deny assistance to applicants, and terminate assistance for participants if the family is under contract and 180 days have elapsed since the MHA's last housing assistance payment was made.
2. The MHA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.
3. The MHA must deny admission to the program for applicants, and terminate assistance for program participants if the MHA determines that any household member is currently engaging in illegal use of a drug.
4. The MHA must deny admission to the program for applicants, and terminate assistance for program participants if the MHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.
5. The MHA must deny admission to an applicant if the MHA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.
6. The MHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.
7. The MHA must deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR, Part 5, subparts B and F.
8. The MHA must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.
9. The MHA must deny admission or terminate assistance when the family fails or refuses to sign and submit consent forms for obtaining information in accordance with 24 CFR part 760, and 24 CFR

part 813, as well as evidence of citizenship or eligible immigration status pursuant to 24 CFR 812, and any other information (including but not limited to social security numbers) which the MHA is authorized to, or not prohibited from, requesting or obtaining.

10. The MHA must deny admission or terminate assistance when the family has physically abused or engaged in violent behavior toward MHA personnel.
  - “Abusive or violent behavior towards MHA personnel” includes verbal as well as physical abuse or violence.
11. If the participant has violated any Family Obligation under the Federal Section 8 Program or any other housing program.

### **Discretionary Grounds for Denial or Termination of Assistance 24CFR 982.551, 24CFR 982.552**

The MHA has discretion to deny program assistance for an applicant, or terminate program assistance for a participant for any of the following reasons:

1. If any family member has violated the family obligation under 24CFR 982.551 not to engage in any drug-related criminal activity.
2. If any family member has violated the family obligation under 24CFR 982.551 not to engage in any violent criminal Activity.
3. If any family member has violated any Family Obligation under the Section 8 Program or any other housing program.
4. If any family member has made misrepresentations on an application or recertification including, but not limited to, misrepresentation of income or household members and failure to immediately report any changes in income, family composition or status.
5. For applicants only, if any member of the family has been evicted from federally assisted housing in the last three years (or in the case of an eviction for drug-related or violent criminal activity, in the last five years).
6. If any member of the family commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
7. The family currently owes rent or other amounts to the MHA or to another LHA in connection with Section 8 or any other state or federal public housing assistance program.
8. An assisted family, or members of the family, receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.
9. The family has not reimbursed any MHA 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 (see CFR 882.112) (d), or for a vacated unit (see CFR 882.105 (b))
10. If the family breaches an agreement with the MHA to pay amounts owed to another PHA or amounts paid to an owner by the PHA. The MHA at its discretion may offer the family the opportunity to enter into a repayment agreement. The MHA will prescribe the terms of the agreement.
11. The assisted family is not living in the unit that is being subsidized.
12. If the family causes destruction or damage to the dwelling unit thereby creating a significant health and safety hazard in or about the unit or of a previously occupied unit under the Section 8 or another housing program.
13. If the family participating in an FSS program fails to comply, without good cause, with the family’s FSS contract of participation.
14. If the family willfully and persistently fails to fulfill its obligation under the Section 8 welfare-to-work voucher program.

15. If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents.
16. If the family has engaged in or threatened abusive or violent behavior toward MHA personnel.
  - a. “Abusive or violent behavior towards MHA personnel” includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral that is customarily used to insult or intimidate, may be cause for termination or denial.
  - b. “Threatening” refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
  - c. Actual physical abuse or violence will always be cause for termination.
17. A PHA may deny assistance for an applicant or terminate assistance for a participant under the programs because of the family's action or failure to act as described in this section or §982.553.

**B. SCREENING AND TERMINATION FOR DRUG ABUSE, ALCOHOL ABUSE AND CRIMINAL ACTIVITY 24CFR 982.553**

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the MHA to fully endorse and implement a policy designed to:

- Help create and maintain a safe and drug-free community
- Keep our program participants free from threats to their personal and family safety

Mandatory prohibition. Applicants are subject to CORI & SORI background checks

- Applicants are prohibited admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program (SORI). In this screening of applicants, a criminal history background check is necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and in other States where the household members are known to have resided.
- An applicant *must* be prohibited admission to the program for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity.
- If any household member is currently engaged in, or has engaged in during a reasonable time before the admission, the household may be denied admission for the following reasons:
  - (1) Drug-related criminal activity;
  - (2) Violent criminal activity;
  - (3) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
  - (4) Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the MHA (including an employee or contractor, subcontractor or agent).

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability or other legally protected groups.

**DEFINITIONS**

***Covered person,*** for the purposes of 24CFR Part 982 and this chapter, means a tenant, any member of the tenant’s household, a guest or another person under the tenant’s control.

***Drug*** means controlled substances as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

***Drug-related criminal activity*** means the illegal manufacture, sale, distribution, or use of a drug, or possession of a drug with intent to manufacture, sell, distribute or use the drug.

***Guest***, for the purposes of 24CFR Part 5 subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

***Household***, for the purposes of 24 CFR Part 982 and this chapter, means the family and MHA approved live-in aide.

***Other person under the tenant's control***, for the purposes of the definition of covered person and for 24 CFR Parts 5 and 982 and for this chapter, means that the person although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

***Violent criminal activity*** means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### **Screening of Applicants**

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5 Subpart J, the MHA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older. See the full text of 24 CFR 982.553 for more detail.

### **Standard for violation**

The MHA will deny participation in the program to applicants and terminate assistance to participants in cases where the MHA determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents, including cases where the MHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse. Based upon the applicant/participant's previous history, the MHA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the past twelve months.

The existence of the above-referenced behavior by any household member, regardless of the applicant or participant's knowledge of the behavior, may be grounds for denial or termination of assistance to the extent allowable by the law.

In evaluating evidence of negative past behavior, the MHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

## **Denial of Assistance for Drug Related and Violent Criminal Activity**

### **Ineligibility for Admission if Evicted for Drug-Related Activity:**

Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Section 8 program for a ten (10) year period beginning on the date of such eviction.

However, the household may be admitted if, after considering the individual circumstances of the household, the MHA determines that the circumstances leading to eviction no longer exist for example:

- The criminal household member has died
- The criminal household member is imprisoned
- The criminal household member is no longer a member of the household
- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised rehabilitation program.

Applicants may be denied assistance if they have been:

- Convicted of and or evicted from federally assisted housing for violent criminal activity with the past five years prior to the date of the certification interview.

## **Denial of Assistance for Sex Offenders**

The MHA will use the Dru Sjodin National Sex Offender Public Website database (NSOPW) and the Massachusetts Sex Offender Registry Board database (SORB) to screen applicants for admission.

The MHA will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the MHA will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration.

## **Termination of Assistance for Participants for Drug Related Criminal Activity or Violent Criminal Activity**

The MHA has established the following standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity.

Assistance may be terminated for participants:

- If any member of the household violates the family obligations by engaging in drug-related or violent criminal activity.

In appropriate cases, the MHA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the MHA may consider individual circumstances with the advice of Juvenile Court officials.

The MHA will waive the requirement regarding drug-related criminal activity if:

- The circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration or otherwise.

## **Terminating Assistance for Alcohol Abuse by Household Members**

Under the family obligations listed in 24CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in

the immediate vicinity of the premises. Assistance may be terminated due to violation of a family obligation if the MHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

In appropriate cases, the MHA may permit the family to continue receiving assistance provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the MHA may consider individual circumstances with the advice of Juvenile Court officials.

### **Notice of Termination of Assistance**

In any case where the MHA decides to terminate assistance to the family, the MHA must give the family written notice as set forth in Chapter 18. The MHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the termination of assistance. The Notice to the owner will not include any details regarding the reason for the termination of assistance.

### **Required Evidence**

*Preponderance of evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be provided is more probable than not. The intent is not to prove criminal liability beyond a reasonable doubt, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

*Credible evidence* may be obtained from police and or court records, testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

The MHA may terminate assistance for criminal activity by a household member, as described in this chapter, if the MHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

### **Confidentiality of Criminal Records**

The MHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed, will be housed in a locked file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance.

If the family is determined eligible for initial or continued assistance, the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

The MHA will document in the family's file the circumstances of the criminal report and the date the report was destroyed.

## **C. OBLIGATIONS OF THE PARTICIPANT**

This Section states the obligations of a participant family under the program.

### **i. Supplying required information**

- a) The family must supply any information that the Middleborough Housing Authority or HUD determines is necessary in the administration of the program, including submission of required



evidence of citizenship or eligible immigration status. Information includes any requested certification, release or other documentation.

- b) The family must supply any information requested by the Middleborough Housing Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- c) The family must disclose and verify Social Security Numbers by submitting their Social Security card or submitting an official notice from the Social Security office; the family must sign and submit consent forms for obtaining information
- d) The family must sign a Release for Authorization HUD form #9886
- e) Any information supplied by the family must be true and complete.

## **2. HQS breach caused by the Family**

The family is responsible for any HQS breach caused by the family or its guests as described in 24CFR 982.404(b).

## **3. Allowing Middleborough Housing Authority Inspection**

The family must allow the Middleborough Housing Authority to inspect the unit at reasonable times and after at least two (2) days' notice.

## **4. Violation of Lease**

The family may not commit any serious or repeated violation of the lease.

## **5. Family Notice of Move or Lease Termination**

The family must notify the Middleborough Housing Authority and the owner before the family moves out of the unit or terminates the lease by a notice to the owner except when the owner has terminated the tenancy by written notice to quit, then the tenant shall not be required to provide any particular number of days advance notice to the MHA and the owner and the tenant is not liable for any rent and/or use and occupancy after the date the tenant vacates the unit.

## **6. Owner Eviction Notice**

The family must promptly give the Middleborough Housing Authority a copy of any owner eviction notice it receives.

## **7. Use and Occupancy of the Unit**

- a) The family must use the assisted unit for a residence by the family. The unit must be the family's only residence.
- b) The Middleborough Housing Authority must approve the composition of the assisted family residing in the unit. The family must promptly inform the Middleborough Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request approval from the Middleborough Housing Authority to add any other family member as an occupant of the unit. No other person (i.e., no one but members of the assisted family) may reside in the unit (except for a foster child/foster adult or live-in aide as provided in paragraph (4) of this Section).
- c) The family must promptly notify the Middleborough Housing Authority if any family

member no longer resides in the unit.

- d) If the Middleborough Housing Authority has given approval, a foster child/foster adult or a live-in aide may reside in the unit. The Middleborough Housing Authority has the discretion to adopt reasonable policies concerning residence by a foster child/foster adult or a live-in aide and defining when the Middleborough Housing Authority consent may be given or denied.
- e) Members of the household may engage in legal profit making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.
- f) The family must not sublease or let the unit.
- g) The family must not assign the lease or transfer the unit.

**8. Absence from the Unit**

**See Chapter 6 Section C - Definition of Absent**

**9. Interest in the Unit**

The family may not own or have any interest in the unit (except under Housing Choice Voucher Homeownership Program).

**10. Fraud and Other Program Violation**

The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

**11. Crime by Family Members**

The members of the family may not engage in drug-related criminal activity or other violent criminal activity.

**12. Other Housing Assistance**

An assisted family, or members of the family, may not receive Section 8 tenant based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

**Housing Authority Discretion 24CFR 982.552(c)**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the MHA shall consider all of the circumstances in each case, including the seriousness of the case. The MHA shall review the extent of participation or culpability of individual family members and the length of time since the violation occurred. The MHA shall also review the family's more recent history and record of compliance and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The MHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The MHA may permit the other members of a family to continue in the program.

### **Lease Violations**

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

- If a Court determines that a tenancy has been terminated for serious or repeated violations of the lease.
- If the owner notified the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and
- If there are police reports, neighborhood complaints or other third party information, that has been verified by the MHA.

### **Proposed additions to the family**

- The MHA may deny a family's request to add additional family members as set forth in this Chapter in sections A and B above.

### **Family member moves out**

Families are required to notify the MHA if any family member leaves the assisted household. When the family notifies the MHA they must furnish the following information:

- The date the family member moved out.
- Third party documentation of the new address of the family member if available.
- A statement as to whether the family member is temporarily or permanently absent.

### **Limitation on Profit-Making Activity in Unit**

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business, which is not available for sleeping, it will be considered a violation.

If the MHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation.

If the MHA determines the business is not legal, it will be considered a program violation.

## **D. PROCEDURES FOR NON-CITIZENS 24CFR 5.514,5.516,5.518**

Applicant or participant families in which all members are neither U.S. citizen's eligible immigrants are not eligible for assistance and must have their assistance terminated. The MHA must offer the family an opportunity for a hearing.

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

### **False or Incomplete Information**

The MHA shall deny or terminate assistance based on the submission of false information or misrepresentation.

### **Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the INS Primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the MHA either after the INS appeal or in lieu of the INS appeal.

After the MHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

## **E. ZERO (\$0) ASSISTANCE TENANCIES 24CFR 982.455 (a)**

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180-day timeframe, an owner rent increase or a decrease in Total Tenant Payment causes the family to be eligible for the housing assistance payment, the MHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

**F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION  
24CFR 982.551, 24 CFR 982.552 (c)**

If the family has misrepresented any facts that caused the MHA to overpay assistance, the MHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement.

**G. MISREPRESENTATION IN COLLUSION WITH OWNER 24CFR 982.551, 24 CFR 982.552 (c)**

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the MHA may deny or terminate assistance.

In making this determination, the MHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family understands of the events.

**H. MISSED APPOINTMENTS AND DEADLINES 24CFR 982.551, 982.552 ( c)**

It is a Family Obligation to supply information, documentation and certification as needed for the MHA to fulfill its responsibilities. The MHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allows the MHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the MHA may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the MHA to inspect the unit.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility of Admissions
- Verification Procedures
- Voucher Issuance and Briefings
- Housing Quality Standards Inspections
- Re-certifications

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Incarceration
- Family emergency

**Procedure when Appointments are Missed or Information not Provided**

For most purposes in this Plan, the family will be given 2 opportunities before being issued a notice of termination or denial for breach of family obligations.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing, the notice may be rescinded if the family offers to cure and the family does not have a history

of non-compliance.

## Chapter 16

### OWNER DISAPPROVAL AND RESTRICTION

#### 24CFR 982.54, 24 CFR 982.306, 24 CFR 982.453

##### **A. DISAPPROVAL OF OWNER 24CFR 982.306, 24 CFR 982.54(d) (8)**

A property owner does not have a right to participate in the program. For purposes of this section, “owner” includes a principal or other interested party. The disqualification of the owner would apply to future tenancies but not to current tenancies. Participants residing in units belonging to the disqualified owner shall not be asked to move solely because of a decision to disapprove the owner.

The MHA will disapprove the owner for the following reasons:

1. If HUD or other agency has informed the MHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24CFR part 24.
2. If HUD has informed the MHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
3. If HUD has informed the MHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.
4. Unless the lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member.
5. If the owner has violated obligations under a housing assistance payments contract under Section 8 or the 1937 Act (42 U.S.C. 1437f).
6. If the owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
7. If the owner has engaged in drug-related criminal activity or any violent criminal activity.
8. If the owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
9. The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

##### **B. CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new contract and lease.

The MHA may approve the assignment of the HAP contract at the old owner’s request. The MHA may approve the assignment since they are a party to the contract. The MHA may deny approval of assignment of the contract, for any of the reasons listed in Section A of this chapter.

The MHA will process the change of ownership only upon written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the Employee Identification Number or Social Security number of the new owner.

If the new owner does not want an assignment of the contract, the MHA will terminate the HAP contract with the old owner, since they are no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit or remain in the unit so long as permitted by law.

## Chapter 17

### OWNER OR FAMILY DEBTS TO THE MHA 24CFR 982.552

When families or owners owe money to the MHA, the MHA will make every effort to collect it. The MHA will use a variety of collection tools to recover debts including but not limited to:

- Requests for lump sum payments
- Repayment agreements
- Abatements
- Reductions in HAP to owner
- Collection agencies
- Credit bureaus
- Small Claims court

#### **A. REPAYMENT AGREEMENT FOR FAMILIES 24CFR 982.552 (b) (6-8)**

Grounds for denial or termination of Section 8 Assistance include situations in which the family owes money to the Housing Authority

The MHA may, in its discretion, based on the facts and circumstances of the case, offer the family the opportunity to enter into a repayment agreement.

Factors considered in determining whether a repayment agreement will be offered include, but are not limited to the following:

- The amount of money owed
- The reason such money is owed and the extent of culpability on the part of family members
- The family's evidence of commitment and ability to make repayment.

Any amount due to the MHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the MA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the MHA will terminate the assistance upon notification to the family and pursue other modes of collection.

The MHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceeds the Federal or State threshold for criminal prosecution.

The length of time the MHA will generally enter into a repayment agreement with a family is for 12 months not to exceed 24 months.

The minimum monthly amount of repayment for any repayment agreement is \$50.

**First Repayment Agreement:** Generally, a minimum down payment of 1/3 of the "amount due" must be provided at the time of execution of the repayment agreement. The repayment agreement will not be executed without receipt of the minimum down payment amount. Additional payments will generally be due and payable in equal installments on or before the first of the month. Amounts over \$1,000 must be repaid within 24 months. Amounts between \$500 and \$1,000 must be repaid within 12 months. Amounts less than \$500 must be repaid within 6 months.

**Second Repayment Agreement:** Generally, a minimum down payment of 1/3 of the “amount due” must be provided at the time of execution of the repayment agreement. The repayment agreement will not be executed without receipt of the minimum down payment amount. Additional payments will generally be due and payable in equal installments on or before the first of the month. Amounts over \$1,000 must be repaid within 12 months. Amounts between \$500 and \$1,000 must be repaid within 6 months. Amounts less than \$500 must be repaid within 30 days.

In the event of breach of agreement by the family (two delinquent payments), the MHA shall retain the right to terminate the agreement and move forward with termination of Section 8 Assistance in accordance with the notice and hearing procedures set forth in Chapter 18. Termination will be based on the grounds originally available at the time of execution of the Repayment Agreement and on any additional grounds, which have become applicable since the execution of the Agreement.

**Third Repayment Agreement:** The MHA will not enter into a third repayment agreement - the voucher will be terminated.

**B. DEBTS OWED FOR CLAIMS 24CFR 792.103, 982.551 (b) (6-8)**

If the family owes money to the MHA for claims paid to an owner:

- The MHA will require the family to pay the amount in full

If the family requests a move to another unit and has a repayment agreement in place, and the repayment agreement is not in arrears:

- The family will only be permitted to move once during their participation of the Section 8 Housing Program

If the family requests a move to another unit and is in arrears on a payment agreement:

- The family will be required to pay the balance in full, or be terminated from the program

**C. DEBTS DUE TO MISREPRESENTATION/NON-REPORTING OF INCOME 24CFR 982.163**

HUD’s definition of program fraud and abuse is a single act or pattern of actions that:

- Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of the Section 8 program requirements.

**Family Error/Late Reporting**

Families who owe money to the MHA due to the family’s failure to report increases in income shall be required to repay in accordance with the guidelines in the Repayment Agreement Section of this Chapter.

**Program Fraud**

Families who owe money to the MHA due to program fraud will be required to repay in accordance with the guidelines in the Repayment Agreement Section of this Chapter.

**D. GUIDELINES FOR PAYMENT AGREEMENTS 24CFR 982.552 (b)(8)**

- The Section 8 Coordinator must execute the Repayment Agreement between the MHA and the head of



household.

- A payment will be considered to be in arrears if it is not received by the close of the fifth business day after the due date.
- The agreement will be considered to be in default when the family is in arrears for 2 payments.
- Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of hardship, and the approval of the Section 8 Coordinator.

#### **Additional Monies Owed**

If the family already has a Payment Agreement in place and incurs an additional debt the MHA will not enter into an additional Repayment Agreement except under compelling circumstances.

#### **E. OWNER DEBTS TO THE MHA 24CFR 982.453 (b)**

If the MHA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the MHA may reclaim the amounts from future Housing Assistance or Claim Payments owed to the owner for any units under contract.

If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, the MHA will:

- Require the owner to pay the amount in full within 30 days.
- Pursue collections through the local court system.
- Restrict the owner from future participation

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the MHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the MHA will offer to enter into a repayment agreement

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the MHA will ban the owner from future participation in the program and pursue other modes of collection.

#### **F. WRITING OFF DEBTS**

Debts will be written off if:

- The debtor's whereabouts are unknown;
- The debtor is deceased;
- A determination is made that the debtor is judgment proof;
- In accordance with the Write-off Policy for the MHA.

## Chapter 18

### COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS

#### A. COMPLAINTS

The Middleborough Housing Authority will investigate and respond to complaints by participant families, owners, employees and members of the general public. The Middleborough Housing Authority does require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone. Anonymous complaints are investigated whenever possible.

The MHA hearing procedures will be provided to families in the briefing packet.

#### Categories of Complaints

**Complaints from families:** If a family disagrees with an action or inaction of the MHA or owner

- Complaints from families will be referred to the Section 8 Coordinator.

**Complaints from owners:** If an owner disagrees with an action or inaction of the MHA or family

- Complaints from owners will be referred to the Section 8 Coordinator.

**Complaints from staff:** If a staff person reports an owner or family either violating or not complying with program rules,

- Complaints will be referred to the Section 8 Coordinator.

#### B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS 24 CFR 982.54 (d) (12), 982.554

The Middleborough Housing Authority will give an applicant for participation in the Section 8 Program prompt notice in writing of a decision denying assistance to the applicant.

The notice must contain:

- The reason(s) the family is ineligible with sufficient factual details for the applicant to prepare a rebuttal.
- Inform the applicant which part of the criminal record appears to make him/her ineligible, if applicable.
- Provide the applicant with an opportunity to dispute the accuracy and relevance of the CORI.
- The procedure for requesting a review if the applicant does not agree with the decision
- The time limit for requesting a review.

If the denial is based on CORI, the MHA shall provide the applicant with a copy of the CORI, the MHA's CORI policy, and DCJIS's information concerning the process to correct a criminal record.

The MHA must provide applicants with the opportunity for Informal Review of decisions when denying for any of the following:

- Qualification for preference
- Listing on the MHA's waiting list
- Issuance of Voucher
- Participation in the program

### **C. Informal Review Process (Applicants)**

A request for an Informal Review must be received in writing by the close of the business day no later than ten (10) days from the date of the MHA's notification of denial of assistance. The informal review will be scheduled within a reasonable period from the date request is received.

The informal review may not be conducted by the person who made the decision under review, nor a subordinate of such person.

The applicant will be given the option of presenting oral or written objections to the decision. Both the MHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A Notice of the Informal Review Decision will be provided in writing to the applicant within a reasonable time after the review. Such written notice shall include the decision of review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation and a copy of the final decision will be retained in the family's file.

#### **1. When a Hearing is Required (Participants)**

The MHA must provide participants with the opportunity for an informal hearing for decisions related to any of the following MHA determinations:

- a) Determination of the family's annual or adjusted income and the computation of the housing assistance payment.
- b) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Middleborough Housing Authority utility allowance schedule.
- c) A determination of the family unit size under the Middleborough Housing Authority subsidy standards.
- d) A determination to terminate assistance for a participant family because of the family's action or failure to act.
- e) Denial of hardship exemption to the minimum rent requirement

#### **2. When a Hearing is Not Required**

The Middleborough Housing Authority will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

- Discretionary administrative determinations by the Middleborough Housing Authority.
- General policy issues or class grievances.
- Establishment of the Middleborough Housing Authority schedule of utility allowances for families in the program.
- A Middleborough Housing Authority determination not to approve an extension or suspension of a voucher term.
- A Middleborough Housing Authority determination not to approve a unit or lease.
- A Middleborough Housing Authority determination that an assisted unit is not in compliance with HQS. (However, the Middleborough Housing Authority will provide the opportunity for an informal hearing for: (a) a decision to terminate assistance for a breach of the HQS caused by the family; or (b) for the tenant to contest any alleged tenant-caused HQS breaches).
- A Middleborough Housing Authority determination that the unit is not in accordance with HQS

because of the family size.

- A determination by the Middleborough Housing Authority to exercise or not exercise any right or remedy against the owner under a HAP contract.

### **3. The Hearing**

In the cases described in section (C) (1) above, the MHA shall give the family prompt written notice of such determinations, which will include:

- The proposed action or decision of the MHA
- The reason for the proposed action or decision with sufficient factual detail for the family to prepare a rebuttal (including, where applicable, the particular criminal offenses upon which a termination is based).
- The date the proposed action or decision will take place
- The family's right to an explanation of the basis for the MHA decision
- The time limit for requesting the hearing
- To whom the hearing request should be addressed

When terminating assistance for criminal activity as shown by a criminal record, the MHA will provide the subject of the record and the tenant/participant with a copy of the criminal records upon which the decision to terminate was based.

When the MHA receives a request for an informal hearing, a hearing shall be scheduled within a reasonable period. The notification of hearing will contain:

- The date and time of the hearing.
- The location where the hearing will be held.
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense.
- The right to view any documents or evidence in the possession of the MHA upon which the MHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing.
- The Hearing Officer's request to receive at least three business days prior to the hearing copies of any documents or evidence to be presented at the hearing

After a hearing date is agreed to, the family may request to reschedule no later than 24 hours prior to the scheduled date provided the family shows "good cause" which includes but is not limited to an unavoidable conflict which seriously affects the health, safety or welfare of the family, the unavailability of counsel, job, school, or illness.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, in order to reschedule a hearing, the family must contact the MHA within 24 hours, excluding weekends and holidays. The hearing will be re-scheduled only once if the family can show good cause for the failure to appear.

Families have the right to:

- Present written or oral objections to the MHA's determination.
- The family will be given the opportunity prior to the hearing to examine any Middleborough Housing Authority documents that are relevant to the hearing.
- Be allowed to copy any such document at the family's expense.
- Present any information or witnesses pertinent to the issue of the hearing
- Request that MHA staff be available or present at the hearing to answer questions pertinent to the case

- Be represented by legal counsel, advocate, or other designated representative at their own expense.
- To request a translator to be provided by the MHA at the hearing.

The MHA has a right to:

- Have its attorney present.
- Present evidence and any information pertinent to the issue of the hearing
- Be notified, upon MHA's request, if the family intends to be represented by legal counsel, advocate, or another party
- Upon MHA's request to examine and copy any documents to be used by the family prior to the hearing, the tenant shall provide the MHA with the documents at least three (3) business days. If the tenant does not make these documents available to the MHA as provided above, then the MHA may either (1) go forward with the hearing as scheduled (and the tenant may submit and rely upon such documents at the hearing) or (2) seek a postponement of the hearing in order to have time to respond to such documents.
- Have staff persons and other witnesses familiar with the case present

The hearing shall concern only the issues for which the family has received proper advance written notice. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the MHA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the MHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on the preponderance of the evidence presented at the hearing.

The Hearing Officer shall provide a Notice of Hearing Findings to both the MHA and the family within a reasonable period of time. The notice shall include:

- A clear summary of the decision and reasons for the decision
- If the decision involves money owed, the amount owed
- The date the decision

The Middleborough Housing Authority is not bound by a hearing decision as follows:

- a. The decision is contrary to HUD regulations or requirements.
- b. The decision is contrary to Federal, State, or local law; and
- c. The decision exceeds the authority of the person conducting the hearing under the Middleborough Housing Authority hearing procedures.

If the Middleborough Housing Authority determines that it is not bound by a hearing decision, the Middleborough Housing Authority will notify the family within a reasonable period of time of the determination, and of the reasons for the determination.

All requests for a hearing, supporting documentation and a copy of the final decision will be retained in the family's file.

**D. HEARING AND APPEAL PROVISIONS FOR “RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS” 24CFR PART 5, SUBPART E**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the MHA hearing is pending but assistance to an applicant may be delayed pending the MHA hearing.

**INS DETERMINATION OF INELIGIBILITY**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the MHA shall notify the applicant or participant within 10 days of the their right to appeal to the INS with thirty days or to request an informal hearing with the MHA either in lieu of or subsequent to the INS appeal. If the family appeals to the INS, they must give the MHA a copy of the appeal and proof of mailing or the MHA may proceed to deny or terminate. The time period to request an appeal may be extended by the MHA for good cause.

The request for a MHA hearing must be made within 10 days of receipt of the notice offering the hearing or, if an appeal was made to the INS within 10 days of receipt of that notice. After receipt of a request for informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the MHA will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral
- Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the MHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.
- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to review or hearing in the same way as terminations for any other type of fraud.

**E. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES 24CFR 982.204, 24 CFR 982.552(c)**

When applicants are denied placement on the waiting list, or the MHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process (applicants) or the informal hearing process (participants).

## CHAPTER 19

### PROGRAM INTEGRITY

#### 24 CFR 792.101 TO 24 CFR 792.204, 24 CFR 982.54

##### **A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

Under no circumstances will the MHA undertake an inquiry or an audit of a participating family arbitrarily. The MHA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The MHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the MHA has a responsibility to HUD, the community and eligible families in need of housing assistance to monitor participants and owners for compliance and, when indicators of possible abuse come to the MHA's attention, to investigate such claims.

The MHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

**Referrals, Complaints, or Tips.** The MHA will follow up on referrals received by mail, by telephone, or in person from other agencies, companies or persons alleging that a family is in noncompliance with or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

**Internal File Review.** A follow-up will be made if the MHA staff discovers (as a function of certification or recertification, an interim re-determination, or a quality control review) information or facts that conflict with previous file data, the MHA's knowledge of the family, or statements made by the family.

**Verification of Documentation.** A follow-up will be made if the MHA receives independent verification or documentation that conflicts with representations in the family's file (such as public record information or reports from credit bureaus or other agencies)

##### **B. STEPS THE MHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

The MHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, noncompliance and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

**Things You Should Know (HUD-1140-OIG).** This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules and to clarify the MHA's expectations for cooperation and compliance.

**Program Orientation Session.** The MHA staff will conduct mandatory orientation sessions for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all program orientation sessions, the family representative will be required to sign a program-briefing certificate to confirm that all rules and pertinent regulations were explained to them.

**Resident Counseling.** The MHA may provide the participant counseling as a part of the recertification in order to clarify any confusion pertaining to program rules and requirements.

**Review and Explanation of Forms.** Staff will explain all required forms and review the contents of all (re) certification documents prior to signature.

**Use of Instructive Signs and Warnings.** Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

**Participant Certification.** All family representatives shall be required to sign a participant certification form.

#### **C. STEPS THE MHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD**

**Credit Bureau Inquiries.** Credit bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

- At the time of final eligibility determination
- When an allegation is received by the MHA wherein unreported income sources are disclosed
- When a participant's expenditures exceed his/her reported income and no plausible explanation is given.

#### **D. THE MHA's HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD**

The MHA staff will encourage all participating families to report suspected abuse to the Section 8 Coordinator. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints, and tips will be carefully evaluated to determine whether they warrant follow-up. The Section 8 Coordinator will not follow up on allegations that are vague or otherwise nonspecific. They will only review allegations that contain one or more independently verifiable facts.

**File Review.** An internal file review will be conducted to determine whether the subject of allegation is a client of the MHA and, if so, the family has previously disclosed whether or not the information reported.

The MHA will then determine whether it is the most appropriate authority to do a follow-up (as compared to police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

**Conclusion of Preliminary Review.** If at the conclusion of the preliminary file review there are facts contained in the allegation that conflict with file data and that are independently verifiable, the Section 8 Coordinator will initiate an investigation to determine if the allegation is true or false.

#### **E. OVERPAYMENTS TO OWNERS**

The MHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the MHA or the tenant, as applicable.

#### **F. HOW THE MHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If the MHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the Executive Director to monitor program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, the MHA will secure the written authorization from the program participant for the release of information.



**Credit Bureau Inquiries.** In cases involving previously unreported income sources, a credit bureau inquiry may be made to determine whether the financial activity of the family conflicts with the family's reported income.

**Verification of Credit.** In cases where the financial activity conflicts with file data, a verification of credit form may be mailed to the creditor to determine the source of unreported income.

**Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

**Neighbors/Witnesses.** Neighbors and/or other witnesses who are believed to have direct or indirect knowledge of facts pertaining to the MHA's review may be interviewed.

**Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.

**Public Records.** The MHA will review any relevant public records kept in a jurisdictional courthouse. Examples of public records that may be checked are real estate records, marriage and divorce records, and uniform commercial code financing statements, voter registration rolls, judgments, court or police records, state wage records, utility records, and postal records.

**Interviews with Head of Household.** The MHA will discuss the allegation (or details thereof) with the head of household or family members by scheduling an appointment.

**G. PLACEMENT OF DOCUMENTS, EVIDENCE, AND STATEMENTS OBTAINED BY THE MHA.**

Documents and other evidence obtained by the MHA during the course of an investigation will be considered "work product" and will be kept either in the participant's file or in a separate "work file" but will be made available to the tenant, upon request, when relied upon for any action taken by the MHA.

**H. CONCLUSION OF THE MHA'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the Section 8 Coordinator. It will then be determined whether the facts are inconclusive and, if so whether a violation has or has not occurred.

**GLOSSARY**

**1937 Housing Act:** The United States Housing Act of 1937 [42 U.S.C. 1437 ET seq.]

**Absorption:** In portability, the point at which a receiving housing authority stops billing the initial housing authority for assistance on behalf of a portable family. [24 CFR 982.4]

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based.

**Administrative Fee:** Fee paid by HUD to the housing authority for the administration of the program.

**Administrative Plan:** The plan that describes housing authority policies for the administration of the tenant-

based programs.

**Admission:** The point when the family becomes a participant in the program. In a tenant-based 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).

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head. An adult must have the legal capacity to enter a lease under State and local law.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and child care expenses for children under 13 years of age. Other allowances can be given at the discretion of the housing authority.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program.

**Annual Income:** All amounts, monetary or not, that:

- a. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member, or
- b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- c. Are not specifically excluded from Annual Income.
- d. Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

**Applicant (applicant family):** A family that has applied for admission to a program but is not yet a participant in the program.

**Assets:** see net family assets.

**Asset Income:** Income received from assets held by household members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income.

**Assisted lease (lease):** A written agreement between an owner and a family for the leasing of a dwelling unit to the family. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the housing authority.

**Certification:** The examination of a household's income, expenses, and family composition to determine the household's eligibility for program participation and to calculate the household's rent for the following 12 months.

**Child:** For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses:** Amounts anticipated to be paid by the family for the care of children under 13 years of

age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen:** A citizen or national of the United States.

**Common space:** In shared /congregate housing: Space available for use by the assisted family and other occupants of the unit.

**Congregate housing:** Housing for elderly or persons with disabilities that meets the HQS for congregate housing.

**Consent form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participants to determine eligibility or level of benefits.

**Contiguous MSA:** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial housing authority is located.

**Continuously assisted:** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Voucher Program. A family is considered continuously assisted even if they were not subsidized under a program covered under the 1937 Housing Act provided that such period of non-receipt of subsidy assistance is related to certain program technicalities. Example of a program technicality includes a move with tenant based assistance where the new HAP is not executed due to no fault of the Section 8 participant. The MHA will make this determination on a case by case basis taking into consideration the facts and circumstances of each case.

**Covered Families:** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

**Domicile:** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Decent, safe, and sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable Housing Quality Standards, Massachusetts State sanitary code and local codes.

**Department:** The Department of Housing and Urban Development.

**Dependent:** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a fulltime student.

**Disability assistance expenses:** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the

expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family:** A family whose 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.

**Disabled person:** See "person with disabilities."

**Displaced family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Displaced person:** A person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Drug-related criminal activity:** Illegal manufacture, sale, distribution, use or possession with intent to manufacture, sale, distribution or use of a drug or possession of a drug with intent to manufacture, sell, distribute or use the drug.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly Family:** A family whose head, spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person:** A person who is at least 62 years of age.

**Evidence of citizenship or eligible status:** The documents that must be submitted to evidence citizenship or eligible immigration status.

**Exception rent:** An amount that exceeds the published fair market rent.

**Extremely low-income families:** Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

**Fair Market Rent (FMR):** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned existing, decent, safe and sanitary rental housing of modest (non-

luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

**Family** includes but is not limited to:

- a. A family with or without children;
- b. An elderly family;
- c. A disabled family;
- d. A displaced family;
- e. The remaining member of a tenant family; and
- f. A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family;
- g. Two or more persons who will share a residence, who are related by blood, marriage, adoption, or affinity that lives together in a stable family relationship;

**Family members:** Include all household members except live-in aides, foster children and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the HUD-50058 form.

**Family Rent to Owner:** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program):** A self-sufficiency program established by the Middleborough Housing Authority (MHA) that offers incentives to promote economic self-sufficiency among motivated FSS Section 8 participants via successful completion of their FSS Contract of Participation.

**Family Share:** The portion of rent and utilities paid by the family or the gross rent minus the amount of the housing assistance payment.

**Family unit size:** The appropriate number of bedrooms for a family as determined by the housing authority under the housing authority's subsidy standards.

**50058 Form:** The HUD form that housing authorities are required to complete for each assisted household in public housing to record information used in the certification and re-certification process, and, at the option of the housing authority, for interim reexaminations.

**FMR/exception rent limit:** The Section 8 existing housing fair market rent published by HUD headquarters, or any exception rent. For a tenancy in the Voucher Program, the housing authority may adopt a payment standard up to 110% of the FMR/exception rent limit.

**Full-time student:** A person who is attending school or vocational training on a full-time basis.

**Gross rent:** The sum of the rent to the owner plus the utility allowance for any tenant paid utilities.

**Group Home:** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

**Head of household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household members:** include all individuals who reside or will reside in the unit and who are listed on the lease, including live-in aides, foster children and foster adults.

**Housing Assistance Payment (HAP):** The monthly assistance by a housing authority, which includes:

- (1) a payment to the owner for rent to the owner under the family's lease, and
- (2) an additional payment to the utility company if the total assistance payment exceeds the rent to owner.

**Housing Choice Voucher (HCV):** A document issued by a housing authority to a family selected for admission to the Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**Housing Quality Standards (HQS):** The HUD minimum quality standards for housing assisted under the Section 8 program.

**Housing voucher holder:** A family that has an unexpired housing voucher.

**Imputed income:** For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used in determining annual income.

**Imputed welfare /public assistance income:** The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

**Income category:** Designates a family's income range. There are three categories: low income, very low income and extremely low-income.

**Incremental income:** The increased portion of income between the total amount of welfare and earnings of a family member prior to enrollment in a training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases and decreases, is treated in the usual manner in determining annual income.

**Initial Housing Authority:** In portability, both: (1) a housing authority that originally selected a family that later decides to move out of the jurisdiction of the selecting housing authority; and (2) a housing authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing housing authority.

**Initial payment standard:** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner:** The rent to owner at the beginning of the initial lease term.

**INS:** The U.S. Immigration and Naturalization Service and its successor agencies.

**Interim (examination):** A reexamination of a household's income, expenses, and household status conducted between the annual re- certifications when a change in a household's circumstances warrant such a reexamination.

**Jurisdiction:** The area in which the housing authority has authority under State and local law to administer the program.

**Lease:** A written agreement between an owner and tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner and the housing authority.

**Legal capacity:** The participant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

**Live-in aide:** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- a. Is determined to be essential to the care and well-being of the persons;
- b. Is not obligated for the support of the persons; and
- c. Would not be living in the unit except to provide the necessary supportive services.

**Low-income families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

**Medical expenses:** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

**Mixed family:** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

**Moderate rehabilitation:** Rehabilitation involving a minimum expenditure of \$1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

- a. Upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance); or
- b. Repair or replace major building systems or components in danger of failure.

**Monthly adjusted income:** One twelfth of adjusted income.

**Monthly income:** One twelfth of annual income.

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

**Net family assets:**

- a. Net cash value after deducting reasonable costs that would be incurred in disposal of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- b. In cases where a trust fund has been established and the trust is not revocable or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.
- c. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Non-citizen:** A person who is neither a citizen nor national of the United States.

**Notice of Funding Availability (NOFA):** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Occupancy standards:** The standards that the housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Owner:** Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

**Participant (participant family):** A family that has been admitted to the housing authority's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the housing authority for the family (first day of initial lease).

**Payment standard:** In a voucher tenancy, the maximum monthly assistance payment for a family (before deducting the total tenant payment by family contribution). For a voucher tenancy, the housing authority sets a payment standard in the range from 90% to 110% of the current FMR.

**Person with disabilities:** A person who:

- A. Has a disability as defined in 42 U.S.C. 423
- B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  1. Is expected to be of long-continued and indefinite duration;



2. Substantially impedes his or her ability to live independently; and
3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

C. Has a developmental disability as defined in 42 U.S.C. 6001(8)

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

An “individual with handicaps” is defined in 24 CFR 8.3 for the purposes of reasonable accommodations and program accessibility for persons with disabilities.

**Portability:** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial housing authority.

**Premises:** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space:** In shared /congregate housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Pro-ration of assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance.

**Public Housing:** housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating funds.

**Public Housing Agency:** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

**Reasonable rent:** A rent to owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

**Receiving Housing Authority:** In portability, a housing authority that receives a family selected for participation in the tenant-based program of another housing authority. The receiving housing authority issues a voucher, and provides program assistance to the family.

**Recertification:** A reexamination of a household's income, expenses, and family composition to determine the household's rent for the following 12 months.

**Remaining member of a tenant family:** A member of the family listed on the lease that continues to live in an assisted household after all other family members have left.

**Rent to owner:** The monthly rent payable to the owner under the lease. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Repayment Agreement:** The term refers to a formal document signed by a tenant or owner and provided to the MHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

**Responsible Entity:**

- A. For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the MHA administering the program under an ACC with HUD;
- B. For all other Section 8 programs, responsible entity means the Section 8 project owner.

**SEMAP certification:** the PHA's annual certification to HUD, on the form prescribed by HUD, concerning its performance in key Section 8 program areas.

**Shared housing:** In congregate housing. A unit occupied by two or more families. The unit consists of both common spaces for shared use by the occupants of the unit and separate private space for each assisted family.

**Shelter allowance:** That portion of a welfare benefit (e.g., TAFDC) that the welfare agency designates to be used for rent and utilities.

**Single person:** Someone living alone or intending to live alone who does not qualify as an elderly person, a person with disabilities, a displaced person, or the remaining member of a tenant family.

**Single room occupancy housing (SRO):** A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

**Special admission:** Admission of an applicant that is not on the housing authority waiting list, or admission without considering the applicant's waiting list position.

**Special housing types:** Special housing types include: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes.

**Specified welfare (public assistance) benefit reduction:**

- A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
- B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
  - 1. At the expiration of a lifetime or other time limit on the payment of welfare benefits
  - 2. Because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
  - 3. Because a family member has not complied with other welfare agency requirements.

**State Wage Information Collection Agency (SWICA):** The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Statement of family responsibility:** An agreement in the form prescribed by HUD, between the housing authority and a family to be assisted under the Moderate Rehabilitation Program, stating the obligations and responsibilities of the family.

**Subsidy standards:** Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension:** Stopping the clock on the term of a family's voucher, for such period as determined by the housing authority. Also referred to as tolling.

**Tenant:** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Third-party (verification):** Oral or written confirmation of a household's income, expenses, or household composition provided by a source outside the household, such as an employer, doctor, school official, etc.

**Tolling:** see suspension.

**Total tenant payment (TTP):**

(1) Total tenant payment is the amount calculated under Section 3(a) (1) of the 1937 Act which is the higher of:

- a. 30% of the family's monthly adjusted income;
- b. 10% of the family's monthly income;
- c. Minimum rent: \$50
- d. If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

**Utility allowance:** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement:** In the voucher program, the portion of the housing assistance payment that exceeds the amount of the rent to owner. It is only paid when the housing assistance payment exceeds the rent to owner.

**Verification:**

- a. The process of obtaining statements from individuals whom can attest to the accuracy of the information (e.g., employers, public assistance agency staff, and doctors).

b. The three types of verification are:

- (1) Third-party verification, written or oral, obtained from employers, public assistance agencies, schools, etc.
- (2) Documentation such as a copy of a birth certificate or bank statement
- (3) Family certification or declaration (only used when third party documentation verification is not available).

**Very low-income families:** Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Veteran:** Any person honorably discharged from the Armed Services of the United States after serving one hundred eighty-one (181) consecutive days or more.

**Violent criminal activity:** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (rental voucher):** A document issued by a housing authority to a family selected for admission to the Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family and states the obligations of the family under the program.

**Voucher holder:** families holding a voucher with unexpired search time.

**Waiting list admission:** An admission from the housing authority waiting list. [24 CFR 982.4]

**Welfare assistance:** Welfare or other public assistance payments to families or individuals, based on need, that are made under programs funded by Federal, State or local governments. [24 CFR 5.603(d)]

**Welfare rent:** In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

**Welfare-to-Work (MTW) families:** Families assisted with voucher funding awarded under the HUD welfare-to-work voucher program.

## ACRONYMS

ACC - Annual Contributions Contract

CACC - Consolidated Annual Contributions Contract

CFR- Code of Federal Regulations

FMR - Fair Market Rent

FSS - Family Self-Sufficiency (program)

HA - Housing Authority

HAP - Housing Assistance Payment

HCDA - Housing and Community Development Act

HQS - Housing Quality Standards

HUD - U.S. Department of Housing and Urban Development

INS - U.S. Immigration and Naturalization Service (and its successor agencies)

LHA –Local housing authority or agency

MHA - Middleborough Housing Authority

NAHA - (Cranston-Gonzalez) National Affordable Housing Act

NOFA - Notice of Funding Availability

OMB – U.S. Office of Management and Budget

PBC - Project-Based Certificate (program)

PHA – Public housing authority or agency

QHWRA - Quality Housing and Work Responsibility Act of 1998

SEMAP – Section Eight Management Assessment Program

TTP - Total Tenant Payment

**PROGRAMS NOT AVAILABLE AT THIS TIME**

**CHAPTER 20  
SRO MODERATE REHABILITATION ADMINISTRATIVE PLAN  
(RESERVED)**

**CHAPTER 21  
HOMEOWNERSHIP  
(RESERVED)**

**CHAPTER 22  
DESIGNATED HOUSING ALLOCATION PROGRAM (DHAP) AND  
MAINSTREAM (MS) PROGRAM  
(RESERVED)**

**Chapter 23  
PROJECT-BASED ASSISTANCE (PBA)  
(RESERVED)**

**CHAPTER 21  
HOMEOWNERSHIP  
(RESERVED)**

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**A. HOMEOWNERSHIP 24CFR 982.625**

The MHA will offer monthly homeownership assistance payments to qualified families according to the policies contained in this chapter.

**B. Monthly Homeownership Assistance Payments**

The MHA will offer the monthly homeownership assistance to eligible participants in the Section 8 Housing Choice Voucher Program. Preference will be given to those participants who have received Section 8 Housing Choice Vouchers (HCV) from the Middleborough Housing Authority and/or who have been participating in a Family Self-Sufficiency program for at least six months, or have graduated from the FSS program. Elderly and disabled families will automatically be given this preference.

Within preference and non-preference categories, families will be selected according to the date and time their application for participation in the homeownership option is submitted to the MHA.

**C. Monthly Homeownership Assistance: Eligibility Requirements 24CFR 982.627**

The Family must meet all of the requirements listed below before the commencement of homeownership assistance.

- The family must be eligible for the Housing Choice Voucher Program
- The family (except for families with a disabled member) must qualify as a first-time homeowner, or may be a co-operative member.
  - a. A single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a “first-time homeowner”.

- b. The right to purchase title to a residence under a lease-purchase agreement is not considered an “ownership interest”.
- a. A member of a cooperative (as defined in 24CFR 982.4) qualified as a “first-time homeowner”.

The family must meet the Federal minimum employment requirement:

- At least one adult family member who will own the home must be currently employed full time and must have been continuously employed for one year prior to homeownership assistance.

HUD regulations define “full time employment” as not less than an average of thirty (30) hours per week.

The MHA’s Executive Director may also consider whether and to what extent an employment interruption is considered permissible in satisfying the employment requirement.

The Executive Director may also consider successive employment during the one-year period and self-employment in a business.

The Federal minimum employment requirement does not apply to elderly or disabled families.

Any family member who was an adult member of a family that previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future homeownership assistance.

The MHA will impose the following additional initial requirements:

- The family must have fully repaid any outstanding debt owed to the MHA or any other Housing Authority
- The family must not have defaulted on a mortgage securing debt to purchase a home.
- Must not have any member who has a present ownership interest in a residence at the commencement of home ownership assistance.

#### **D. Homeownership Counseling Requirements 24CFR 982.630**

When a family has been determined eligible, they must attend and complete homeownership counseling sessions. HUD must approve these counseling sessions or the program shall be consistent with the homeownership counseling provided under HUD’s Housing Counseling program. The MHA will require families to participate in an MHA approved pre-purchase counseling prior to closing and post home ownership counseling program on a continuing basis.

The following topics will be included in the homeownership counseling sessions:

- Home maintenance (including care of the grounds).
- Budgeting and money management
- Credit counseling
- How to negotiate the purchase price of a home
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing.
- How to find a home, including information about homeownership opportunities, schools, and transportation in the MHA jurisdiction



- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.
- Information about RESPA, state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions

**E. Eligible Units 24CFR 982.628**

The unit must meet all of the following requirements:

- The unit must meet HUD's "Eligible Housing" requirements.
- The unit may not be any of the following:
  1. A public housing or Indian housing unit
  2. A unit receiving Section 8 project-based assistance.
  3. A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services
  4. A college or other school dormitory
  5. On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit was already existing or under construction at the time the family was determined eligible for homeownership assistance.
- The unit was already existing or under construction at the time the family was determined eligible for homeownership assistance.
- The unit is a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit has been inspected by the MHA and by an independent inspector designated by the family.
- The unit meets HUD Housing Quality Standards.
- The unit may be a home where the family will not own fee title to the real property (such as a manufactured home), if the home has a permanent foundation and the family has the right to occupy the site for at least 40 years.

The MHA will not approve the seller of the unit if the MHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation. The MHA may disapprove a seller for any reason provided for disapproval of an owner in the voucher program.

**F. MHA Search and Purchase Requirements 24CFR 982.629**

The family's deadline date for locating (A home shall be considered located if the family submits a proposed sales agreement with the requisite components to MHA) a home to purchase will be 180 days from the date the family's eligibility for homeownership option is determined. For good cause, the MHA may extend a participant's search time to locate the home for additional thirty (30) day increments not to exceed 365 days. During a Section 8 participant's search for a home to purchase, his/her Section 8 rental assistance shall continue pursuant to this Administrative Plan.

The MHA will require periodic reports on the family's progress in finding and purchasing a home. The family will provide such reports at 30-day intervals.

The family must obtain financing for the home with 180 days from the date the MHA's approves the submitted purchase and sales agreement.

Once a home is located and a sales agreement approved by MHA and signed by the family, the family shall have up to three (3) months to execute the sale, or such other time as is approved by the MHA's Executive Director.

If the family is unable to purchase a home within the maximum time limit, the MHA shall continue the family's participation in the Section 8 HCV.

**G. Inspection and Contract 24CFR 982.631**

The unit must meet Housing Quality Standards, and must also be inspected by an independent professional inspector selected and paid by the family.

The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

- Foundation and structure
- Housing interior and exterior
- Roofing
- Plumbing, electrical and heating systems

The independent inspector must not be a MHA employee or contractor. The MHA will not require the family to use an independent inspector selected by the MHA, but the MHA has established the following standards for qualification of inspectors selected by the family.

The independent inspection report must be provided to the MHA prior to the MHA inspection.

The MHA may disapprove the unit for homeownership assistance because of information in the report.

Any inspection the MHA conducts after the initial inspection will be done on an advisory basis. The family will be encouraged to make the repairs, but will not be required to do so as a condition of ongoing assistance.

The family must enter into a contract sale with the seller of the unit. A copy of the contract must be given to the MHA. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home.

Prior to execution of the offer to purchase a sales agreement, the family must provide the financing terms to the MHA.

The contract must also:

- Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory;
- Provide that the purchaser is not obligated to pay for necessary repairs without MHA approval;
- Must provide that the purchaser is not obligated to purchase if the mortgage financing terms are not approved by the MHA;
- Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation.

## **H. Financing 24CFR 982.632**

The family is responsible for securing financing. The MHA has established financing requirements listed below and may disapprove proposed financing if the MHA determines that the debt is unaffordable.

The proposed financing terms must be submitted to and reviewed by MHA as soon as possible or at least prior to close of escrow. Certain types of financing; including but not limited to, balloon payment mortgages, unless convertible to a variable rate mortgage, are prohibited and will not be acceptable by MHA. Seller-financing mortgages shall be considered by MHA on a case by case basis. If a mortgage is not FHA-insured, MHA will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, Massachusetts Housing Finance Agency (MHFA), State Soft Second Mortgage Program, or other private lending institution.

The mortgage the family applies for must require a minimum down payment of at least 3% of the sales price with 1% of the down payment coming from the purchaser's personal funds. The MHA will not require that the family have any more than the minimum of 1% of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

The MHA will approve a family's request to utilize its Family Self-Sufficiency escrow account for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

## **I. Continued Assistance 24CFR 982.633**

Homeownership assistance may only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for the purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the MHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the MHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the MHA before moving out of the home.
- The family must notify the MHA if the family defaults on the mortgage used to purchase the home.
- The family must attend pre and post homeownership counseling.
- The home must pass a HUD, Housing Quality Standards inspection yearly.
- The family must comply with Family Obligations as specified in 24CFR 982.551.
- The family must not refinance or add debt secured by the home without prior approval of the MHA.
- The family must not have/and or obtain ownership interest in another residence while receiving homeownership assistance.
- No family member may have any ownership interest in any other residential property.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

## **J. Maximum Term of Homeownership Assistance 24CFR 982.634**

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

- 15 years if the initial mortgage term is 20 years or longer, or
- 10 years in all other cases.

The elderly exception only applies if the family qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family qualifies as disabled.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least six (6) months of homeownership assistance after the maximum term becomes applicable.

If the family receives homeownership assistance for different homes, or from different PHAs, the total is subject to the maximum term limitations.

## **K. Homeownership Assistance Payments and Homeownership Expenses 24CFR**

The monthly homeownership assistance payment is the lower of the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the MHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in this plan for the Housing Choice Voucher Program.

The MHA will pay the homeownership assistance payment directly to the lender. The MHA will collect the family's portion and submit one payment.

Some homeownership expenses are allowances or standards determined by the MHA in accordance with HUD regulations. These allowances are used in determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses include:

- **Monthly homeownership payment.** This includes principal and interest on initial mortgage debt, taxes and insurance, and any mortgage insurance premium, if applicable.
- **Utility allowance.** The MHA's utility allowance for the unit, based on the current HCV utility allowance schedule.
- **Monthly maintenance allowance.** The monthly maintenance allowance will be the annual maintenance allowance divided by twelve. The annual maintenance allowance will be set at .5 percent of purchase price of the home.
- **Monthly major repair/replacement allowance.** The monthly major repair/replacement allowance will be annual major repair/replacement allowance divided by 12. The annual major repair/replacement allowance will be set as a percentage of the purchase price of the home, based on the age of the home at the time of purchase and/or reexamination.

<b>Age of Home</b>	<b>% of purchase price allowed</b>
New to 20 years	0.5
21 to 30 years	1.0
31 to 40 years	1.5
41 to 50 years	2.0
51 years plus	2.5

Homeownership expenses for a cooperative or condominium member may only include MHA approved amounts for the cooperative charge under the cooperative occupancy agreement including the above.

When the homeowner is provided with Soft Second mortgage financing, \$100 of the HAP payment will be applied towards the principal of the loan to compensate for the fact that the second mortgage loan does not begin to amortize until year 11.

**L. Portability 24CFR 982.636, 24 CFR 982.353 (b) and (c), 24 CFR 982.552, 24 CFR 982.553**

Subject to restrictions on portability included in HUD regulations and in Chapter 13 of this plan, the family may exercise portability if the receiving MHA is administering a voucher homeownership program and accepting new homeownership families or where reasonably feasible for MHA to administer.

The receiving MHA may, with MHA approval, absorb the family into its voucher program, or bill the MHA. The receiving MHA arranges for housing counseling and the receiving PHA's homeownership policies apply.

**M. Moving with Continued Assistance 24CFR 982.637**

A family receiving homeownership assistance may move with continued tenant-based assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The MHA will deny permission to move with continued rental or homeownership assistance if the MHA determines that it does not have sufficient funding to provide continued assistance.

The MHA prohibits more than one move by the family during any one-year period.

**N. Denial or Termination of Assistance 24CFR 982.638**

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program contained in Chapter 15 of the Administrative Plan. However, the provisions of CFR 982.551 (c) through (j) are not applicable to homeownership.

The MHA will terminate homeownership assistance if the family is dispossessed from the home due to judgment or order of foreclosure.

The MHA will permit such a family to move with continued voucher rental assistance. However, rental assistance will be denied if the family defaulted on an FHA-insured mortgage, and the family fails to demonstrate that:

- The family has conveyed, or will convey, title to the home as required by HUD, and
- The family has moved, or will move, with voucher rental assistance.

**O. Waiver or Modification**

The Executive Director of the MHA shall have the discretion to waive or modify any provision of the Section 8 Homeownership Program or policies not governed by statute or regulation for good cause.

## **CHAPTER 22**

### **DESIGNATED HOUSING ALLOCATION PROGRAM (DHAP) AND MAINSTREAM (MS) PROGRAM**

**(RESERVED)**

## CHAPTER 23

### PROJECT-BASED ASSISTANCE (PBA) (RESERVED)

<b>OVERVIEW .....</b>	<b>23-141</b>
<b>A. TENANT SELECTION.....</b>	<b>23-141</b>
<b>B. UNIT/SITE SELECTION POLICY .....</b>	<b>23-142</b>
<b>C. PROCEDURES FOR OWNER SUBMISSION PROPOSALS .....</b>	<b>23-143</b>
<b>D. PROCEDURES FOR SELECTION OF PROPOSALS.....</b>	<b>23-143</b>
<b>E. SUMMARY OF OTHER UMPORTANT PROJECT-BASED ASSSISTANCE PROGRAM REGUALTIONS.....</b>	<b>23-146</b>

The Middleborough Housing Authority (MHA) may administer a Project-based Voucher program and may determine from time to time that circumstances exist that indicate that project basing of the units, rather than tenant basing of the same subsidy assistance is an appropriate option. The regulations at 24 Code of Federal Regulations part 983 published 10-13-05 apply to Section 8 project-based assistance units.

The proposed location of any project-based units must comply with the goals of de-concentrating poverty, expanding housing opportunities, and affirmatively furthering fair housing. The MHA's project selection criteria are provided here and will be made available for public viewing.

Under the Project Based Assistance (PBA) program, the MHA may enter into contracts with private owners to use up to 20 percent of Housing Choice Voucher subsidy funds in particular buildings. This is known as "project-basing" what are otherwise tenant-based vouchers. The MHA can project-base Section 8 Housing Choice Voucher program vouchers without requiring owners to invest other funds in their property. Thus, the MHA can decide whether to project-base vouchers to encourage new construction or rehabilitation or to attach assistance to existing units to promote voucher utilization, expand housing choices and de-concentrate poverty.

#### **A. Tenant Selection.**

In general, the MHA's tenant selection procedures for tenant-based programs will apply for units assisted under the PBA Program. Except for units which are occupied by eligible tenants upon the commencement of the project based contract term, when a vacancy exists at a PBA site, the MHA will notify the next families on the MHA Section 8 waiting list. The MHA's letter to the applicants will also state that if the applicant is interested in residing in the vacant PBA unit that the applicant will not lose his/her place on the MHA's Section 8 waiting list until that person has been leased in the PBA unit. All applicants indicating interest in the PBA units will be prescreened by the MHA for Section 8 eligibility and referred to the owner in chronological order by priority placement on the MHA's Section 8 waiting list. If the MHA referrals do not provide the owner with a suitable tenant for the unit within 30 days, the owner may refer a Section 8 eligible individual or family from the owner's waiting list to the MHA waiting list. The referred family must meet the MHA's waiting list priority criteria.

For Rehabilitation or Existing projects, eligible in-place families will be given an absolute preference on the waiting list for units that become available. In- place families must be eligible on the proposal's selection date. In place families must be determined eligible by the MHA and referred to the owner by the MHA.

The owner chooses a tenant for occupancy based on their written tenant selection policy. The MHA must approve the owner's tenant selection procedures. When a family is approved by the owner, they will execute a lease with the owner.

## **B Unit / Site Selection Policy**

Limit on Number of Units Assisted per Building - Project based assistance may be attached to up to 25% of the total number of units in a building. Units occupied by the disabled, elderly, or families receiving supportive services are exempt from this cap.

The types of services that the MHA will deem eligible to qualify a project to meet HUD's definition of families receiving supportive services include, but are not limited to:

- 1) Household Training (e.g.: homemaking, parenting skills, money management);
- 2) Job Training (preparation and counseling, job development and placement, follow-up assistance after job placement, completion of FSS "Contract of Family Participation");
- 3) Self Sufficiency Services and Resources (appropriate to assist families to achieve economic independence and self-sufficiency);
- 4) Remedial Education (education for the completion of Secondary or post-secondary education);
- 5) Substance Abuse Treatment (counseling and treatment for substance abuse)

It is not necessary that the services be provided at or by the project, if they are approved services. Units where the family is receiving qualified supportive services are exempt from the 25% cap. The MHA will require owners of such projects to submit an Annual Progress Report to ensure compliance with the supportive service exemption on the number of units per building. Failure to submit Annual Progress Reports may result in abatement of the HAP payment.

Prior to contracting, unit owners are responsible for selecting tenants that the MHA refers from its waiting list. When selected from the Section 8 waiting list, applicants must satisfy all MHA and HUD income limits and eligibility requirements. Project-based tenants pay 30% percent of their adjusted income for rent subject to exceptions.

The MHA will consider a PBV site if it is consistent with the following de-concentration goals:

- The housing site must be located in Middleborough and be consistent with the de-concentration goals already established in the MHA's PHA plan and with civil rights laws and regulations, including HUD's rules on accessibility at 24 CFR 8.4 (b) 950.
- The MHA will evaluate each proposal based on whether the site is in an Enterprise Zone, Economic Community or Renewal Community (EZ/EC/RC);
- Whether the concentration of assisted units will or has decreased as a result of public housing demolition; whether the census tract is undergoing significant revitalization;
- Whether government funding has been invested in the area; whether new market rate units are being developed in the area which are likely to positively impact the poverty rate in the area;
- If the poverty rate in the area is greater than 20% whether in the past five years there has been an overall decline in the poverty rate and
- Whether there are meaningful opportunities for educational and economic advancement in the area.
- The MHA will not limit proposals to a single site or impose restrictions that explicitly or practically exclude owners from submitting project-based proposals.



The MHA may restrict proposals to those that have a certain number of bedrooms based on waiting list or community need. The MHA will select PBV proposals based on a public competition. The MHA will issue a broad public notice in media of general circulation (including on the internet) of the opportunity for developer/owners to apply/respond to the Request for Proposals to attach project based assistance. Once selected for award, the MHA will promptly notify the owner and publish a public notice of the award in media of general circulation.

The selection criteria will be available at the Housing Authority for public viewing. The MHA may opt not to conduct a separate competition if proposals presented to the MHA were accepted as part of a different competition for federal funds (HOME, HOPE VI, and Tax Credit) within 3 years of the PBV proposal selection date. The original competition however cannot have considered the possibility of future PBV assistance, but the selection must be based on the project's merits at the time of the competition. The MHA may give a preference to Community Housing Development organizations or projects with Low Income Housing Tax Credits. The MHA may submit an application to attach project-based assistance to an existing structure which it owns. HUD will review the selection process in this case and determine that the HA-owned units were appropriately selected based on the selection procedures specified herein. The MHA must determine that the proposed site meets all HUD "Site and Neighborhood" standards as defined at 983.57

#### **C. Procedures for Owner Submission of Proposals**

Owner proposals will be requested in an advertisement with a reasonable deadline. Owners will be sent an RFP application and information packet, which will contain the following:

- A description of the PBA program at 24 CFR 983
- Project selection criteria
- Sample program documents including payment standard schedule, utility allowance schedule and sample HAP agreement
- An application / proposal form.
- Information about application due date and date and time of bidders conference

A Bidders Conference will be provided for owners who would like additional information about the program or who need assistance in completing the proposal form.

#### **D. Procedures for Selection of Proposals**

Initial Review and Screening of Proposals - the MHA will review only proposals submitted in response to the Request for Proposals advertisement and submitted by the stated deadline. The MHA shall review proposals for completeness and compliance with RFP requirements. Proposals must include the following information (threshold requirements):

- Property description, including unit sizes, number of vacancies, eligible occupants.
- Evidence that property is eligible housing as defined at 24 CFR 983.53 and 983.54,
- Evidence that property complies with the cap on the number of PBV units per building (24 CFR 983.56)
- Evidence that property meets the site selection standards (24 CFR 983.57).
- Owner certification indicating understanding and agreement to abide by all MHA and HUD rules and regulations governing the PBA program.
- Description of previous management experience and participation in HUD subsidized housing programs.
- Written tenant selection policy and procedures.
- Proposed rent levels accompanied by rent comparables for similar unassisted units in the area.

- Information on how the site is consistent with the de-concentration goals already established in the MHA's MHA plan and with civil rights laws and regulations, including HUD's rules on accessibility at 24 CFR 8.4 (b) 950.
- Owner's agreement to select tenants from the MHA waiting list

Also for New Construction:

- Description of project including work plans.
- Zoning permits and evidence of site control
- Disclosure of Low Income Tax Credit use or lien.
- Statement-of Sources and Uses for Funds to develop the project.
- Operating proforma.
- Descriptions of historic and environmental review status.
- Owner's plan to manage and maintain property.

After this initial threshold review, the following action will be taken:

- 1) Incomplete proposals will not be processed. If the owner fails to provide the needed information within a reasonable time, the proposal will be rejected. Proposals, which would require permanent displacement of tenants, will be rejected. Proposals where there is not site control will be rejected. Proposals where the property has liens attached and these liens are a result of the current owner's negligence will be rejected.
- 2) Owners of rejected proposals will be notified in writing of the reasons for rejection and will be offered an opportunity to discuss the rejection in person with MHA proposal evaluators.
- 3) The MHA will schedule initial inspections of all projects which meet the threshold requirements described above.
- 4) Based on this inspection, the MHA will review the general work and cost estimate and determine that the project qualifies as a New Construction, Rehabilitation or Existing housing project. In the case of new construction and rehabilitation projects, specific work items needed to meet the \$1,000 per unit rehab requirement will be documented by the MHA. In the case of an existing project, the MHA will ensure that the minimum HQS standards are met using Article II of the State Sanitary Code and the Federal Housing Quality Standards. Included in this report will be a statement on the need for temporary relocation of tenants and an estimate of the time needed to complete construction.
- 5) Upon receipt of the above review, the MHA will conduct a feasibility analysis for each project. The MHA will review the requested rents and supporting rent reasonableness information to determine if the rents are permissible under the PBA program. The MHA will determine that the rents approved are reasonable and comparable to private unassisted units.
- 6) Feasible proposals will be ranked according to the following point system.
  - Scope of Work: (New Construction and Rehabilitation projects only) 0 -25 points will be awarded for project feasibility based on scope of work and proposed period of completion.
  - Location: 0-25 points will be awarded for projects located in low poverty areas with few affordable housing opportunities and which have easy access to community services, such as markets, schools, and public transportation. Greater point value will be awarded to projects which meet more of the following de-concentration and accessibility goals: The MHA will evaluate each proposal based on whether the site is in an Enterprise Zone, Economic Community or Renewal Community (EZ/EC/RC); whether the concentration of assisted units will or has decreased as a result of public housing demolition; whether the census tract is undergoing significant revitalization; whether government funding has been invested in the area; whether new market rate units are being developed in the area which are likely to positively impact the poverty rate in the area; if the poverty rate in the area is greater than 20% whether in the past five years there has been an overall decline in the poverty rate and whether there are meaningful opportunities for educational and economic advancement in the area.

The MHA will only award PBV assistance to projects consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. The MHA will not limit proposals to a single site or impose restrictions that explicitly or practically exclude owners from submitting project-based proposals.

- Readiness to proceed: 0-20 points will be awarded to projects where there are no legal encumbrances; in-place tenants have indicated their willingness to proceed with renovations; proposed rehab is consistent with existing zoning; owner/developer has already completed development activities such as work write-ups, specifications, cost estimates, bids, financing commitments, Historic Commission approval, and 21 (e) hazardous waste approval.
- Owner Experience and Written Tenant Selection Policy and Procedures 0-10 points will be awarded for projects where owner / development team has previous experience doing similar work; owner has demonstrated capability to self-manage or has professional management.
- Bonus Points: If the above criteria result in tie scores, the MHA will evaluate projects based on location and amenities ( 0-10 bonus points) and ( 0 -10 bonus points) for CHDOs or projects with LIHTCs.

#### 7) Notification of Owners

Owners whose proposals have been approved will be promptly notified in writing of their acceptance and the number and size of the units which will be assisted. In each selection phase, letters to owners whose proposals have been selected will state that they have 30 days in which to complete any incomplete or deficient aspects of the proposal. For New Construction and Rehabilitation projects, the owners will within a reasonable time:

- Submit final specifications for construction/rehab
- Determine a contractor
- Secure general financial commitment letters
- Sign an agreement with the MHA stating willingness to participate in program and to agree to long-term leasing covenants.

#### 8) Agreement to Enter into a Housing Assistance Payments (AHAP) Contract Execution All New Construction / Rehab PBV units require the owner/project sponsor to enter into an AHAP contract with the MHA prior to any demolition and/or construction. An AHAP contract will not be necessary for an Existing project. An AHAP contract cannot be executed until the following actions are completed and approved by HUD, where applicable:

- A subsidy layering review (SLR) for any project that has any other government assistance from federal, state or local agencies, including tax concessions and tax credits. The SLR must be performed by HUD, or an agency designated by HUD. Although an MHAP contract is not necessary, a SLR will be required of an Existing project.
- An environmental review (ER) performed by the “responsible entity” (RE) designated by the city/town or state, or, a certification by the RE that a review is not required.

#### 9) Housing Assistance Payments (HAP) Contract Execution

The MHA may enter into a Housing Assistance Payments (HAP) Contract for a maximum of ten years contingent upon annual appropriations. Further, the MHA can extend contract periods to achieve long-term housing affordability or increased housing opportunities up to an aggregate total term of 15 years. Extensions will be granted within one year before HAP expiration. The MHA will pay the difference between the tenant rent (roughly 30% of gross income) and the approved rent for the unit directly to the owner on a monthly basis. The Section 8 project based contract rent may not exceed rents charged for comparable units in the private unassisted market and shall be approved by the MHA. The Section 8 project based contract rent may not exceed rents charged for comparable units in the private unassisted market, and

*shall be consistent with HUD regulations found at 24 CFR 983, subpart G, Rent to Owner, and shall be approved by the MHA.*

**E. Summary of Other Important Project-based Assistance Program Regulations.**

The following is a summary of other important HUD PBA regulations published on October 13, 2005.

**PBA vouchers remain “mobile”:** After one-year families have the option to leave the PBA unit and receive a tenant-based voucher. The MHA will supply the owner with a referral for a new PBA tenant. Families who wish to relocate with continued assistance must inform the owner and the MHA in writing not less than 30 days prior to the date they plan to vacate the unit. The MHA will then place the family on a Mobile PBA Voucher Waiting list according to the date and time of receipt by the MHA of written notification of the family’s 30 day notice of intent to vacate. The MHA will issue the next available tenant based voucher to families on the Mobile PBA voucher waiting list before proceeding to its regular section 8 waiting list. Families from the regular Section 8 waiting list who have been notified of an eligibility appointment for a tenant based voucher will not be delayed from receiving their voucher.

**Inspections:** Inspections for the entire building will occur at the same time annually.

**Rent:** The voucher rent may never be set higher than what is reasonable in comparison to the unassisted market. The maximum rent is the same as the maximum payment standard approved for the Section 8 tenant-based voucher program or any other HUD approved exception rent. Additional rent restrictions for tax credit properties may be found at 24 CFR 983.301. Effect on rent to owners where there is other subsidy is described at 24 CFR 983.304.

**Rent Increases:** Rent Increases during the term of the contract may be approved by the MHA so long as the increased rents do not exceed the maximum and are reasonable.

**Vacancy Payments:** The MHA may pay the owner vacancy payments for up to 60 days.

**High Rise Elevator.** If the project is a high-rise elevated building that will house families with children, HUD must approve the site, based on criteria that indicate that “there is no practical alternative” for family housing in the community.

**Davis Bacon Wage Rates- If PBV assistance will be attached to nine or more units in a project the Davis-Bacon (D-B) Wage Rate Schedule, available online at <http://www.access.gpo.gov/davisbacon>**