

INFORMAL HEARING FOR PARTICIPANT FOR DENIAL, REDUCTION OR TERMINATION OF ASSISTANCE

- 1. A current participant must be given the opportunity for an informal hearing to Determine whether the PHA'S decision is in accordance with the law, HUD regulations, and PHA policies in the following determinations:**
- A. The family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
 - B. Determination of the appropriate utility allowance for tenant-paid utilities from the PHA utility allowance schedule.
 - C. Family unit size under the PHA subsidy standards.
 - D. Family residing in a unit with a larger number of bedrooms than is appropriate for the family unit size under the PHA subsidy standards, or the PHA determination to deny the family's request for an exception from the standards.
 - E. Termination of assistance for a participant family because for the family's action or failure to act (24CFR 982.552).
 - F. Termination of assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.

In case described in (A), (D) and (F) the PHA must give the opportunity for an informal hearing before the PHA terminates housing assistance payments for the family under an outstanding HAP contract.

- 2. The PHA is not required to provide a participant family an opportunity for an informal hearing for any of the following:**
- A. Discretionary administrative determination by the PHA
 - B. General policy issues or class grievances.
 - C. Establishment of the PHA schedule of utility allowances for families in the program.
 - D. Not to approve of an extension or suspension of a voucher term.
 - E. Not to approve a unit or tenancy.
 - F. Assisted unit is not in compliance with HQS. (However, if the decision for termination assistance is for a breach of the HQS caused by the family as described in 24 CFR 982.551(c).
 - G. The unit is not in accordance with HQS because of the family size.
 - H. A determination by the PHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

3. Notice to Family:

The PHA must notify the family, that the family may ask for an explanation of the basis for the PHA determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision in writing.

The PHA must give the family prompt written notice that the family may request a hearing. The notice must include:

- A. Contain a brief statement of reasons for the decision.
- B. Family may request an informal hearing on the decision if the family does not agree with the decision.
- C. State the deadline for the family to request an informal hearing.

4. Discovery:

- A. **I) By Family.** The family must be given the opportunity to examine, before the PHA hearing, any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at the family's expense. If the PHA does not make the document(s) available for examination on request of the family, the PHA may not rely on the document(s) at the hearing.
- B. **II) By PHA.** The PHA must be given the opportunity to examine at PHA offices before the PHA hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document(s) available for examination on request of the PHA, The family may not rely on the document(s) at the hearing.
- C. Documents. The term "documents" includes records and regulations.

5. Representation of family:

- A. At its own expense, a lawyer or other representative may represent the family.

6. Hearing officer:

- A. Any person(s) designated by the PHA, other than a person who make or approved the decision under review or a subordinate of this person.
- B. Person(s) who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA hearing procedures.

7. Evidence:

- A. The PHA and the family must be given the opportunity to present evidence, and may question any witnesses. Evidence applicable to judicial proceedings.

8. Issuance of decision:

- A. Decision must be prompt and in writing stating briefly the reason(s) for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

9. Effect of decision: The PHA is not bound by a hearing decision:

- A. Concerns a matter not required to provide an informal hearing or exceeds the authority of the person conducting the hearing under the PHA'S procedures.
- B. Contrary to HUD regulations or requirements. Or otherwise contrary to Federal, State, or Local Law.

In cases where the PHA determines that it is not bound by a hearing decision, the PHA must promptly notify the family of the determination, and of the reason(s) for the determination.

10. Hearings to consider a Determination of Ineligible Immigration Status:

The PHA must offer an applicant or participant family the opportunity to request an informal hearing in the determination of ineligible immigration status. The family may request an informal hearing within 30 days of receipt of the ineligibility determination from the INS, or the PHA's decision to delay, terminate or deny assistance.