

## Chapter 13

# MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

### INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the Housing Authority's jurisdiction, or to a unit outside of the Housing Authority's jurisdiction under Portability procedures. The regulations also allow the Housing Authority the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of the Housing Authority's jurisdiction, and the policies for restrictions and limitations on moves.

### A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance under one of the following circumstances:

- The assisted lease for the old unit has terminated because the Housing Authority has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family. Families with owner notices undergo an eligibility review to determine program violations or ongoing eligibility.
- The family has given proper notice of lease termination and the family has a right to terminate the lease under the terms of their lease.
- The family has been displaced by a verified catastrophic disaster, e.g. wildfires, earthquakes, floods
- The Violence Against Women Reauthorization Act of 2013 provides that a family may receive a voucher from a Housing Authority and move to another jurisdiction under the HCV program if the family has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

### B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

The Housing Authority may deny permission to move under the following circumstances:

- The family has violated a Family Obligation [that may result in termination of assistance](#) (See Chapter 15 for a list of Family Obligations).
- The family [owes the Housing Authority is delinquent on a repayment agreement](#)

with the Housing Authority money. This may be due to a damage claim from a prior tenancy or an overpayment made by the Housing Authority for a family's rent.

- The family has moved with assistance within the past 12 months.

## **C. PROCEDURE FOR MOVES [24 CFR 982.314]**

### **Issuance of Voucher**

Subject to the restrictions on moves, the family's income and household composition will be reviewed prior to issuance of a voucher to move. An annual recertification may be scheduled if a recertification is due within 120 days from the date of the mover voucher.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

### **Notice Requirements**

Briefing sessions emphasize the family's responsibility to give the owner and the Housing Authority proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the rental agreement or lease and must give a copy to the Housing Authority simultaneously.

### **Time of Contract Change**

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit.

If the family vacates from the rental unit in accordance with their rental agreement, the Housing Authority may pay through the end of the month that the family vacates if funding is available. If the family moves in violation of the rental agreement or is evicted due to violation of the rental agreement, the Housing Authority will pay through the end of the month in which they vacate.

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move.

## **D. PORTABILITY [24 CFR 982.353]**

Portability applies to families moving out of or into the Housing Authority's jurisdiction within the United States and its territories.

### **OUTGOING PORTABILITY [24 CFR 982.353, 982.355]**

Within the limitations of the regulations and this policy, a participant family has the right to receive HCV tenant-based voucher assistance to lease a unit outside the Housing Authority's jurisdiction, anywhere in the United States, in the jurisdiction of a Housing Authority with a HCV tenant-based program. When a family requests to move outside of

the Housing Authority's jurisdiction, the request must specify the area to which the family wants to move.

### **Restrictions on Portability**

#### **Non-Resident Applicants**

If neither the head of household or co-head/spouse had a legal residence within the jurisdiction of Housing Authority at the time the family first submitted an application to waitlist, the family will be required to lease a unit in the jurisdiction of the Sonoma County Housing Authority for a twelve month period before they will be permitted to use portability. Waivers to this policy may be available for persons who have been displaced by a federally, state declared disaster within Sonoma County or as a reasonable accommodation due to a disability related need.

#### **Participants**

The Housing Authority may deny portability to higher cost areas when the Housing Authority would be unable to avoid terminating assistance to current participants in order to remain within its available HAP funding, and the receiving Housing Authority will not absorb the family. Participants denied portability under this section will be notified in writing at the time of denial. The Housing Authority will hold the move request for 60 days and will notify the family if funds become available for the move within that time period.

[A portability request may be denied if the requesting family is subject to a Repayment Agreement with the Sonoma County Housing Authority.](#)

[If a family is denied a request for portability, they may request an informal hearing. If an Informal Hearing is requested by the family, the hearing will be conducted by the Housing Authority, using the regular hearing procedures included in this Plan \(See Chapters 15 and 19\).](#)

### **INCOMING PORTABILITY** [24 CFR 982.354, 982.355]

The Housing Authority will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher utilizing the Housing Authority's policies regarding subsidy and payment standards.

The Housing Authority may absorb incoming portable families and issue a voucher from its own ACC provided there is funding available.

If the Housing Authority does not absorb, the Housing Authority will "administer" the family using the initial Housing Authority's voucher. The Housing Authority will provide eligibility and inspection services. The Housing Authority will bill the initial Housing Authority for HAP paid and administrative fees according to HUD regulations.

New incoming portable applicants must be income eligible in this jurisdiction.

The receiving Housing Authority does not redetermine eligibility for a portable family that was already receiving assistance in the initial Housing Authority HCV tenant-based program, but does conduct a recertification interview to determine any changes. The recertification of the family will not cause a delay in the issuance of a voucher, unless there is a question of eligibility due to changes.

If the family has a change in family composition which would change the voucher size, the Housing Authority will change to the proper size based on its own Subsidy Standards. If the family has a change in income, the Housing Authority will make appropriate adjustments.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the Housing Authority's jurisdiction, the Housing Authority will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **Requests for Approval of Tenancy**

When the family submits a Request for Tenancy Approval, it will be processed using the Housing Authority's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a rental agreement/lease, the Initial Housing Authority will be notified after the expiration date of the voucher.

If the family leases up successfully, the Housing Authority will notify the Initial Housing Authority and the billing or absorb process will commence.

The Housing Authority will notify the initial Housing Authority if the family fails to submit a Request for Tenancy Approval for an eligible unit within the term of the voucher.

If the Housing Authority denies assistance to the family, the Housing Authority will notify the Initial Housing Authority at the same time they notify the family and the family will be offered a review or hearing.

The Housing Authority will notify the family of its responsibility to contact the Initial Housing Authority if the family wishes to move outside the Housing Authority's jurisdiction under continued portability.

### **Regular Program Functions**

The Housing Authority will perform all program functions applicable to the HCV tenant-based assistance program, such as:

- Annual reexaminations of family income and composition;

- HQS inspection of the unit; and

- Interim Examinations when requested or deemed necessary by the Housing Authority

### **Terminations**

The Housing Authority will notify the Initial Housing Authority in writing of any termination of assistance within 30 days of the termination. If an Informal Hearing is required and requested by the family, the hearing will be conducted by the Housing Authority, using the regular hearing procedures included in this Plan (See Chapters 15 and 19).

The Initial Housing Authority will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the Initial Housing Authority notifies the Housing Authority that the family is in arrears or the family has refused to sign a Payment Agreement, the Housing Authority will terminate assistance to the family.

### **Required Documents**

As Receiving Housing Authority, the Housing Authority will require the documents listed on the HUD Portability Billing Form from the Initial Housing Authority.

### **Billing Procedures**

As Receiving Housing Authority, the Housing Authority will bill the Initial Housing Authority one time with a HUD 52665 form for Housing Assistance Payments, including Administrative Fees and Special Claims.

The Housing Authority will bill 100% of the Housing Assistance Payment, 100% of Special Claims and 80% of the Administrative Fee (at the Initial Housing Authority's rate) for each "Portability" voucher leased as of the first day of the month. The Housing Authority will notify the Initial Housing Authority of changes in subsidy amounts and will expect the Initial Housing Authority to notify the Housing Authority of changes in the Administrative Fee amount to be billed.