

Comments submitted to HACoLA

Voucher Portability

Chapter 13 of the Administrative Plan §13.2.1 should be revised to be consistent with the HUD PIH Notice 2008-43, Housing Choice Voucher Portability Procedures and Corrective Actions. The current HACoLA policy is that the housing authority may deny families permission to move if there is insufficient funding. “In the event of insufficient funding, [it] may only deny a move to a higher cost area if the Housing Authority would not be unable to avoid termination of housing choice voucher assistance for current participants during the calendar year in order to remain within budgetary allocation (including any available HAP reserve.)” HUD has clarified the portability policy to provide that if a family has been denied a move to a higher cost area, “it may not subsequently admit any additional families to its voucher program until the PHA has determined that sufficient funding exists to approve the move. . . .” Once there is funding available to support the move, the PHA must notify the family and promptly process the request to move.

Thus, § 13.2.1 of the Administrative Plan should be revised by adding a new paragraph that provides as follows:

If Housing Authority denies a family’s request to move due to insufficient funds, it will inform the family that the denial is a temporary denial until funds become available.

Housing Authority will tell the family that when it determines that there is sufficient funding to approve the move, it will notify the family that the family may now move to the higher cost area. If the family continues to express an interest, Housing Authority will promptly process the family’s request to move.

The Housing Authority will not admit any additional families to the voucher program before it assists the family seeking to move.

Section 13.2.2 Allowable Moves for New Applicants

The last paragraph of this section should be revised. In the sentence setting forth examples of situations that may warrant an exception to the rule, HACoLA ought to add victims of domestic violence. In addition, the last two sentences should be removed or clarified, as they are misleading as currently written. In a portability situation, the receiving housing authority, may only deny portability to family who was not already receiving assistance from HACoLA because the family is not income eligible. 24 C.F.R. § 982.355(c)(1). As HACoLA acknowledges elsewhere in the Administrative Plan, if the receiving PHA wants to conduct a more thorough investigation of the family it may do so but it cannot delay in issuing the voucher, unless the reason for the delay is to determine income eligibility. 24 C.F.R. § 982.355(c)(4). The placement of the two sentences is further confusing because it seems to imply that the waiver provision for situations such as reasonable accommodation may require that the receiving PHA also conduct a reasonable accommodation analysis. We do not believe that this was the intent of HACoLA in including these two sentences, but we urge their removal or clarification. A simple solution would be to remove the two sentences and cross reference to § 13.4 Outgoing Portability Procedures.

Section 13.2.4 Restrictions on Moves During the Initial Lease

Subparagraph 3. Mutual Termination should be revised. Currently it provides in the last sentence that HACoLA may initiate a termination of the family if “there is evidence that the family has committed violations of the lease.” This clause should be revised to provide as follows: “there is evidence that the family has committed *any serious or repeated* violation of the lease. Such language is consistent with the voucher family obligations. 24 C.F.R. § 982.551(e).

Comments submitted to Oakland Housing Authority regarding Portability—OHA is a Moving to Work PHA

Chapter 10 MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

This chapter deals with issues related to voucher portability. HUD recently issued additional clarifying guidance regarding portability. *See*, Housing Choice Voucher Portability Procedures and Corrective Actions, PIH Notice 2008-43 (Dec. 3, 2008). This Chapter should be revised to be consistent with the new notice. The current OHA policy is that the housing authority may deny families permission to move if there is insufficient funding. The revised HUD policy clarifies what is meant by “insufficient funding.” The new policy provides that in the event of insufficient funding, the Housing Authority may only deny a move to a higher cost area if the Housing Authority would be unable to avoid termination of housing choice voucher assistance for current participants during the calendar year. The clarification provides that if a family has been denied a move to a higher cost area, the housing authority “may not subsequently admit any additional families to its voucher program until the PHA has determined that sufficient funding exists to approve the move. . . .” In other words, if OHA denies a family’s request to move because of a lack of funds, it may not admit any other family into the OHA voucher program until it has given the family requesting the move the opportunity to do so. In addition, HUD directs that once there is funding available to support the move the housing authority must notify the family and promptly process the request to move. In light of the clarification, we recommend a revision to Chapter 12 of the Administrative Plan adding a new paragraph that provides as follows:

If Housing Authority denies a family’s request to move due to insufficient funds, it should inform the family that the denial is a temporary denial until funds become available and that the Housing Authority may not subsequently admit any additional families to the voucher program before it assists the family seeking to move. Housing Authority will inform the family that when it determines that there is sufficient funding to approve the move, it will notify the family that the family may now move to the higher cost area. If the family continues to express an interest, Housing Authority will promptly process the family’s request to move.

On the issue of determining whether OHA has insufficient funds and therefore may deny the request to move, the new HUD notice provides that the housing authority must be able to document that granting the request would result in the termination of other families. Such documentation may include pending rent increases and the attrition rate for families leaving the voucher program. But the projected costs may not include the cost of vouchers issued to families who have not leased up.

10.11.B. INITIAL PHA ROLE, Subsequent Family Moves *Within the Receiving PHA’s Jurisdiction* [24 CFR 983.314(e)(1), Notice PIH 2005-1]

This section allows OHA to deny subsequent moves to higher cost areas by a family that has ported but continues to use an OHA voucher because the voucher was not absorbed by the receiving housing authority. The basis for the denial of the subsequent move is based upon a determination by

OHA that it does not have sufficient funding. This section must be revised to be consistent with the new HUD notice. The denial must be based upon the data specified and the denial means that OHA may not issue other vouchers to applicants until it has allowed the ported family to move.

The Administrative Plan should be revised to be consistent with this new HUD policy.

10-I.C. MOVING PROCESS, Voucher Issuance and Briefing

This section states that if a family is issued a voucher to move and cannot find a unit within the allowed search time and any allowable extensions or alternatively the current owner with housing authority approval does not agree to allow the family to remain, the family will lose its assistance. This section should be amended to make clear that the voucher family is entitled to a hearing before OHA may terminate the voucher. The discussion regarding voucher expiration in Chapter 5 is not applicable in this situation because the family is a voucher participant not an applicant.