
HOUSING AUTHORITY OF BALTIMORE CITY

Housing Choice Voucher Program

Procedure: Application Screening, Eligibility and Denial of Assistance For Criminal Activity

INTRODUCTION & SCOPE

All applicants for the Housing Choice Voucher (Section 8) Program (HCVP) must be subject to a screening process in accordance with Department of Housing and Urban Development (HUD) rules and regulations and the HABC Administrative Plan for the HCVP. The screening consists of a criminal background investigation of the family, including the head of household (HOH), spouse/co-head and all other family members 14 years of age and older. Except for applicants referred to the Housing First Voucher Program and the Ex-Offender Voucher Program, the HABC will deny admission to applicants in cases where evidence, in the form of misdemeanor or felony convictions, demonstrates that the HOH or any of the household members engage in drug-related criminal activity, violent criminal activity, or other criminal activity that interferes with the health, safety or right to peaceful enjoyment of other residents. For applicants referred to the Housing First Voucher Program, HABC will conduct criminal background screening for felony convictions which demonstrate that the HOH or any of the household members engaged in drug-related criminal activity, violent criminal activity, or other criminal activity that interferes with the health, safety or right to peaceful enjoyment of other residents.

For applicants referred to the Ex-Offender Voucher Program, HABC will conduct criminal background screening only in cases involving a conviction for which federal law requires a denial of admission.

Federal Mandatory Denial of Admission

All applicants, including those referred to the Housing First Voucher Program and the Ex-Offender Voucher Program, will be permanently denied admission if:

- a) Any household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing; or
- b) Any household member is subject to a lifetime registration requirement under Maryland's Sex Offender Registration Program found at Title 11, Subtitle 7 of the Criminal Procedure Article of the Maryland Annotated Code, as amended.

RELATED DOCUMENTS AND LEGAL AUTHORITY

42 U.S.C. §1437f; 42 U.S.C §13661; 24 C.F.R.§§ 982.4, 982.54, 982.552, 982.553, 982.554; 24 C.F.R. § 5.100; HCVP Administrative Plan; Conviction & Denial Factor Key; Informal Review Request Form; Informal Review Form; Exclusion Agreement Form; Administrative Review Request Form

PROCEDURE

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I. Definitions

Drug: a controlled dangerous substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity: the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute or use the drug.

Federally Assisted Housing: housing assisted under any of the following programs: public housing; project-based or tenant-based assistance under Section 8 of the US Housing Act of 1937; other housing programs as defined in 24 C.F.R. § 5.100.

Period of Ineligibility: The period of time during which a household member convicted of a crime will be ineligible for participation in the HCVP. The periods of ineligibility for each crime are set forth in the Conviction and Eligibility Key. The periods of ineligibility start from the date of conviction or the date of release from incarceration whichever is later.

Right to peaceful enjoyment: the right to exclusive use and possession of the unit without interference from the landlord or other person under the landlord's control.

Violent criminal activity: 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.

II. Mandatory Denials

- a) The HABC must permanently prohibit admission to the HCVP for applicants in the following categories:
 - 1) Any household member who has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing;
 - 2) Any household member who is subject to a lifetime registration requirement under Maryland's Sex Offender Registration Program found at Title 11, Subtitle 7 of the Criminal Procedure Article of the Maryland Annotated Code.
- b) The HABC must prohibit admission to the HCVP for three years from the date of eviction if any household member has ever been evicted from federally assisted housing for drug-related criminal activity. The HABC will admit the household if the HABC determines:

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- 1) The evicted household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program; or
- 2) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died, is imprisoned, or otherwise no longer a member of the household). In these circumstances the remaining household member may be required to comply with an Exclusion Agreement in order to gain admission to the HCVP. See paragraph III (1)(f) below.

III. Permissive Denials

- a) The HABC will also deny admission if any household member is currently engaged in, or has engaged in during a reasonable time before the admission in any drug-related criminal activity, violent criminal activity, or 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.
- b) In making its determination to deny assistance based on the above-referenced criminal activity, HABC will only consider criminal charges which resulted in convictions.
- c) The HABC has created a Conviction and Denial Eligibility Key which lists offenses and periods of ineligibility during which applicants convicted of the offense will be ineligible to participate in the HCVP. The periods of ineligibility are not cumulative for multiple offenses, therefore the applicant is subject to the longest period of ineligibility applicable.
- d) During the initial eligibility review, offenses that result in convictions will be subject to a period of ineligibility of 18 months for a misdemeanor offense and 3 years for a felony offense. The Conviction and Eligibility Denial Key provides guidance regarding the period of ineligibility.
- e) If the Applicant is determined ineligible during the initial eligibility process due to a criminal conviction, the Applicant is not removed from the waiting list, however, the eligibility process will be suspended. In order to complete the eligibility process, the Applicant must request reconsideration of the Applicant's eligibility within four (4) months after the expiration of the ineligibility period. If the Applicant fails to make the request within the four- month period, HABC will remove the Applicant from the waiting list. Applicants are responsible for informing the HABC of any changes in their contact information and responding to all HABC correspondence during the period of ineligibility.
- f) The HABC may as a condition of assistance require the applicant to exclude the criminal household member from the unit for the period of ineligibility. The applicant will be required to execute an Exclusion Agreement, which prohibits the

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offending household member from occupying the unit during the specified time period. Refusal to execute the Exclusion Agreement will result in application denial. Any violation of the Exclusion Agreement will result in termination of assistance. Once the period of ineligibility expires, the participant may submit a written request to add the offending household member to the unit.

IV. Notice of Denial and Informal Review

- a) The HABC will give applicants written notice of a decision denying assistance to the applicant which contains a brief statement of the reason for the denial, a description of the specific crime(s) under which the applicant is being denied and the period of ineligibility. This notice will also state that the applicant may request an Informal Review and describe how to schedule this review.
 - 1) If the reason for the denial is alleged criminal activity, the HABC will provide the applicant with a copy of the criminal record used to deny eligibility.
 - 2) Applicants will have 14 – calendar days from the date the denial notice is received to return the Informal Review Request Form. The denial is presumed to have been received 3 business days after the date of mailing.
 - 3) The HABC may accept an Informal Review Request Form beyond the 14 calendar day period for good cause.
- b) Once the Informal Review Request Form has been received, HABC will mail the applicant an Informal Review Notice detailing the Informal Review date, time, and location, the applicant's right to appear with legal representation, the right to bring witnesses and any other documentation to support their case, including evidence of mitigating circumstances.
- c) Applicants may request a postponement of the Informal Review one time without cause. Additional postponements may be requested for good cause only.
- d) As a reasonable accommodation to a person with a disability, the Informal Review may be conducted by telephone.
- e) The Informal Review is presided over by the Informal Review Officer. The Officer must be a qualified employee, who is not involved in application screening, did not make or approve the initial decision to deny assistance, and is not a subordinate of the latter.

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- 1) The HABC Representative and the Applicant may present witnesses, affidavits, documentary evidence, and oral argument. Each may also question any adverse witness and examine all documents presented at the Informal Review.
- 2) The Informal Review Officer shall maintain a record of the Informal Review which must contain all correspondence between HABC and the Applicant related to the denial, copies of all evidence presented at the Informal Review, a summary of all testimony presented, copies of any notes written by the Officer during or after the Informal Review, and a copy of the Officer's written decision.
- 3) In determining whether to uphold or overturn the decision denying admission, the Informal Review Officer may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of the denial of assistance on other family members who were not involved. Additionally, the Informal Review Officer may consider evidence from a service provider certifying to the Applicant's receipt of services, the Applicant family's participation in social service or other appropriate counseling service programs as long as there is a nexus between the criminal offense and the services provided, and such services would result in a reasonable probability of the Applicant's favorable future conduct. The Informal Review Officer may also consider whether the conviction resulted from a problem the Applicant experienced due to being homeless and that a home will resolve the problem.

In determining whether to uphold the decision denying admission for illegal use of drugs by a household member who is no longer engaged in such behavior, the Informal Review Officer may consider whether such household member is participating in or has successfully completed a supervised drug rehabilitation program, or has otherwise been rehabilitated successfully. In such case, the Informal Review Officer may require the applicant to submit evidence showing participation in or successful completion of, a supervised drug rehabilitation program.

- 4) The Informal Review Officer will issue a written decision, which will include a statement of the particular facts and program requirements on which the decision is actually based.. The decision will be mailed to the applicant within 14 calendar days from the date of the Informal Review.