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CHAPTER 31. MANDATORY MEALS

SECTION 1. GENERAL

This handbook covers requirements of the HUD approved mandatory meals program in HUD-assisted projects for the elderly or handicapped persons which were approved prior to April 1, 1987. After April 1, 1987, no HUD-assisted projects have been approved for operating a mandatory meals program.

The applicable regulation for the mandatory meals program is 24 CFR Part 278, which is titled: Mandatory Meals Program in Multifamily Rental or Cooperative Projects for the Elderly or Handicapped. This handbook chapter provides guidance and procedures with respect to requirements under Part 278.

Section 278.10(b): Where HUD has approved a project owner's requirement of one meal (or more) per day under the program, all prospective tenants for admission to the project must be given notice, before the lease is executed, that participation in the program is a condition of occupancy in that project.

Section 278.1(b)(2): HUD approval of a project's mandatory meals program neither creates an inference that the requirements of State or local law have been met, nor does HUD approval preempt nutritional and health and safety standards in applicable State or local statutes and regulations.

31-1. APPLICABILITY.

This chapter is applicable to projects that were approved prior to April 1, 1987 to serve meals under the mandatory meals program. Projects with approved mandatory meals programs had to be equipped with a central dining facility, including a kitchen with sufficient equipment to prepare meals and a dining area sufficient to serve residents of the project either together or on a schedule, or the meals were contracted out. If meals are contracted out, the meals must be served in the central dining facility of the project (see section 3, paragraph 3-8).

The project had to meet one of the following occupancy requirements to be covered by 24 CFR Part 278 with respect to the mandatory meals program:

- a. Statutory authority limits occupancy to elderly or handicapped tenants, or

- b. HUD Regulatory Agreement designates the project for elderly or handicapped tenants, or
- c. HUD requires a preference for elderly or handicapped persons for all units in the project, and

The project receives a subsidy in the form of:

- a. Mortgage subsidies: Interest Reduction Payment under Section 236 (including state-assisted projects without HUD mortgage insurance), Section 221(d)(3) and 221(d)(5) BMIR, or
- b. Loan under Section 202, or
- c. Rent subsidies (some or all of the units receive):
  - o Rent supplement payments under Section 101 (including state-assisted projects without HUD mortgage insurance), or
  - o Housing assistance payments under 24 CFR Part 886, Subpart A, Loan Management Set-Aside payments, for projects that converted their rent supplement contracts under Section 101 of the Housing and Urban Development Act of 1965 to such assistance for the term of the HAP contract, or
  - o Housing assistance payments under Section 8 of the Housing Act of 1937 including Section 8 Housing Assistance payments by State housing agencies under 24 CFR Part 883, subpart E. (excludes: existing housing certificate program and housing voucher program).

31-2. NOT APPLICABLE.

This chapter is not applicable to the following:

- a. Projects that were not approved to operate a mandatory meals program prior to April 1, 1987, or
- b. Projects that were built exclusively for the chronically mentally ill, developmentally disabled, or physically handicapped, or

- c. Unsubsidized projects insured by HUD, or
- d. Projects with voluntary meals programs.

SECTION 2. MANAGEMENT OF THE MEALS PROGRAM

An owner may require as a condition of occupancy that tenants (unless exempted) residing in the project must purchase one or more meals as approved by HUD.

31-3. LEASE PROVISIONS.

All prospective tenants must be given notice, before the lease is executed, that absent qualification for an exemption, participation in the meals program is a condition of occupancy.

The project owner and each prospective tenant must review the meals contract before signing. The meals contract will be incorporated into the lease.

Citation Section 278.10 states the meals agreement must incorporate by reference the requirements of 24 CFR 278 and disclose and explain the following obligations:

- a. Statement that the tenant's participation in the mandatory meals program is a condition of occupancy, and state the number of meals the tenant is required to purchase.
- b. Duration of the meals agreement.
- c. Charges for meals effective on the date the contract is signed.
- d. Exemptions available to tenants (see paragraph 2-4 and 2-5 below).
- e. Statement that failure to comply with these obligations will be a violation of the lease and cause for eviction in accordance with the lease.

31-4. CHARGES FOR MEALS PAID BY TENANTS.

HUD-approved mandatory meals program charges are not rents and shall not be included in rents. However, tenants may write one check including both rent and charges for meals.

- a. The charges for meals are limited to those approved by HUD.
- b. Subject to the requirements of the following paragraph, an owner may charge tenants up to one dollar for delivery of meals to their units if the tenant is immobile or incapable of visiting the dining facility (see paragraph 2-4d and e below in this section). An owner must deliver the meals to a tenant's unit for 30 days free of charge. After 30 days, the owner may charge the tenant up to one dollar per meal for delivery if:
  - o The tenant requests this service in writing and if,
  - o The owner informs the tenant in advance of the additional charge for the service.

31-5. TENANTS WHO ARE PERMANENTLY OR TEMPORARILY INCAPACITATED.

- a. If a tenant is temporarily immobile or temporarily incapable of visiting the dining room, the owner must follow guidance in paragraph 2-2b above and paragraph 2-4d below in this section.
- b. If a tenant is permanently immobile or permanently incapable of visiting the dining room, the owner must follow guidance in paragraph 2-2b above and 2-4e in this section.

NOTE: A tenant's use of a wheelchair, walking support, or similar equipment to enable the tenant to visit the central dining facility may not be considered as conclusive evidence of the tenant's temporary or permanent incapacity.

31-6. MANDATORY EXEMPTIONS.

An owner must grant an exemption if a tenant meets one of the following criteria. Any exemption granted to a tenant will remain valid as long as the tenant meets the condition(s) for which the exemption was originally granted. The citation for the list of exemptions is 24 CFR 278.12.

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Exemptions must be granted to tenants for the following reasons:

- a. A medical condition that requires a special diet. The owner must either provide the special diet or grant the tenant a medical exemption within ten working days upon the tenant's request and receipt of physician's documentation (if owner requests such documentation). The owner may require a physician to document the following before granting an exemption:
  - o A tenant requires a special diet for medical reasons, and
  - o A description of the special diet.
- NOTE: If the owner decides to provide the special diet, it must be provided at no increased cost to the tenant.
- b. A paying job that requires absence from the project during the time period that the meals are served.
- c. Absence from the project for one or more weeks for hospital care, temporary nursing home care, or vacation. The owner may require a tenant to provide a reasonable advance notice, e.g., 3 or 7 days (except for hospital emergencies).
- d. Temporarily immobile or temporarily incapable of visiting the central dining facility (see NOTE in paragraph 2-3b above). Owner must deliver meals free of charge for 30 days. After 30 days, the owner can:
  - o Continue serving Meals in the tenant's dwelling unit during the period of incapacity. The owner can charge up to one dollar for delivery per meal (see paragraph 2-2b), or
  - o Grant the tenant a temporary exemption from participation in the meals program to cover the period of incapacity.

- e. Permanently immobile or otherwise incapable of visiting the central dining facility (see NOTE in paragraph 2-3b). The owner has two choices:
  - o Continue the tenant's participation in the meals program, serve meals in the tenant's dwelling unit. The owner can charge up to one dollar for delivery per meal after the first 30 days (see paragraph 2-2b), or
  - o Grant the tenant an exemption from participation in the meals program.

31-7. DISCRETIONARY EXEMPTIONS.

An owner may grant a discretionary exemption to a tenant for the following reasons: dietary practices (e.g., religious-based dietary practice), financial hardship, or other good cause determined by the owner.

NOTE: An owner who does not provide an exemption for a religious-based dietary practice must offer an alternative menu that does not conflict with the tenant's religious dietary practice.

SECTION 3. PROGRAM ADMINISTRATION

31-8. INCREASES IN CHARGES TO TENANTS MUST BE APPROVED BY HUD.

Charges for mandatory meals are limited to those approved by the HUD Field Office. Any increase in charges must be approved by the HUD Field Office in advance.

- a. An owner must submit a written request by:
  - o Stating current charge per meal and proposed charge per meal, and
  - o Providing a detailed written justification of the proposed increase (e.g. identification and breakdown of additional costs).

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- b. An owner must provide the tenants with a 30-day advance notice of an approved increase.

31-9. NUTRITIONAL STANDARDS.

An owner must comply with State or local nutritional, safety, and health standards along with any nutritional standards established in the meals contract which is incorporated into the lease. If there are no State or local nutritional, safety, and health standards, the owner must:

- a. Request a registered dietician to certify annually that the project's mandatory meals program has been designed to ensure that each meal provides a minimum of one-third of the daily recommended allowances established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.
- b. Submit the registered dietician's certification annually to the HUD Field Office. To avoid a separate submission, the owner may submit this certification with other submission items (e.g., annual financial statements).

NOTE: It is recommended that a copy of the certification signed by the registered dietician be displayed in the central dining facility.

31.10. PROHIBITION AGAINST DISCRIMINATION.

An owner may not discriminate on the grounds of race, color, religion, sex, handicap, familial status, national origin, and age against a tenant or a segment of the project's population.

An owner must administer the project's mandatory meals program in a nondiscriminatory manner and in accordance with:

- a. Title VI of the Civil Rights Act of 1964, and
- b. The Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988, and

- c. Section 504 of the Rehabilitation Act of 1973, and
- d. Age Discrimination Act of 1975, and
- e. Executive Order 11063, and other applicable civil rights authorities.

31-11. COST OF MEALS.

The mandatory meals program must be operated as a non-profit operation. Therefore, the amount charged for the meals is limited to the per capita cost associated with purchasing the food products, preparing food, and serving meals.

The following items cannot be included in the cost for meals:

- a. Operating expenses relating to the purchase or replacement of equipment, maintenance of the kitchen or central dining facility (including labor, utilities and the maintenance of equipment), or
- b. Project expenses.

31-12. LIMITING THE COSTS OF MEALS.

An owner must take the following action in a and b below to limit or reduce the cost of mandatory meals:

- a. Allow eligible tenants to pay for meals with food Stamps.
- b. Participate in surplus food programs (if available).
- c. Suggested actions to limit or reduce meal costs are:
  - o Raise funds from other sources such as soliciting subsidies from State and local government.
  - o Raise donations from businesses or charitable organizations.

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- o Sponsor fund-raisers (if permitted by State or local jurisdictions).

31-13. ACCOUNTING REQUIREMENTS.

HUD-approved mandatory meals program charges are not rents and shall not be included in rents. However, tenants may write one check including both rent and



charges for meals.

- a. Income from the meals cannot be used to subsidize other project costs.
- b. Rental income (including HUD housing assistance payments) cannot be used to subsidize the meals program.
- c. Revenue and expenses from the meals program must be maintained in separate accounting records (e.g. meal account must be separate from rents and other revenue and expenses).
- d. Revenues and expenses of the meals program must be reported as separate line items on the Profit and Loss Statement Form HUD 92410 as required in Handbook 4370.2, Financial Operating and Account Procedures for Insured Multifamily Projects.

31-14. OPERATING SURPLUSES FROM THE MEALS PROGRAM.

Operating surpluses at the end of the project's fiscal year must be used only toward the mandatory meals program. Operating surplus cannot be used to offset other project expenses. An owner must use operating surpluses to:

- a. Offset previous years, operating deficits created by the meals program, or
- b. Offset projected increases in charges for meals in the next fiscal year, or
- c. Reduce meals charges for the next fiscal year.

31-15. USE OF CONTRACT SERVICES.

An owner may contract with a commercial firm to provide mandatory meals. The commercial firm may operate the

meals service on a for-profit basis if the contractor meets the following requirements:

- a. Meals are served in the central dining facility of the project.
- b. Meals charges are comparable to charges of other mandatory meals served in HUD-assisted projects in

the local area, or to costs for meals, charges in comparable non-HUD-assisted projects if there are no other mandatory meals programs in HUD-assisted projects in the local area.

SECTION 4. FIELD OFFICE REVIEW OF MEAL CHARGES AND NONCOMPLIANCE

31-16. THE FIELD OFFICES' REVIEW OF AN INCREASE IN TENANT CHARGES.

The HUD Field Office must review and approve an increase in charges for mandatory meals by comparing proposed charges to:

- a. Charges for mandatory meals in other HUD-assisted projects in the local area, or
- b. Charges for meals in comparable non-HUD-assisted projects in the local area if there is no mandatory meals program in the area.

31-17. MATERIAL NONCOMPLIANCE.

The Field Office must review and evaluate a material noncompliance and notify an owner in writing if he/she is not in compliance with this handbook. The Field Office must request the owner to take corrective action within a reasonable amount of time.

In a case where the owner does not take corrective action, the Field Office may withdraw the approval to operate the mandatory meals program. Before withdrawal of the approval, the Field Office must have established an administrative record to substantiate this decision.

The Field Office may withdraw the approval of the mandatory meals program in the following cases:

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- A. An owner does not comply with State or local law relating to nutritional, safety, or health standards.
  - B. The owner does not operate the mandatory meals program as a non-profit operation (e.g., project funds are used to subsidize the meals program, or income from the meals is used to subsidize other project costs) .

C. Any other material noncompliance with the handbook that is continuing and effects the overall operation of the mandatory meals program.

31-18. WITHDRAWAL OF THE APPROVAL OF THE MANDATORY MEALS PROGRAM.

If the owner does not take corrective action within a reasonable amount of time, the Field Office may withdraw the Department's approval to operate the mandatory meals program within the project.

Once the mandatory meals program approval is withdrawn, the owner must provide written notification within 30 days to all tenants stating that the mandatory meals program is no longer mandatory.

31-19. APPEAL PROCESS.

An appeal of the Field Offices, decision to withdraw the approval of the mandatory meals program must be made in writing to the Director of Housing Management. This request must outline the reasons for the appeal.

If the appeal is denied by the Director of Housing Management, the owner may make an appeal request to the Regional Director of Housing. The Decision made by the Regional Director of Housing is final.