



U.S. Department of Housing and Urban Development  
Des Moines Office, Region VII  
Federal Building  
210 Walnut Street, Room 259  
Des Moines, Iowa 50309-2155

May 21, 1986

Honorable William Ambrisco  
Mayor of Iowa City  
Civic Center  
410 Washington  
Iowa City, IA 52240

Dear Mayor Ambrisco:

SUBJECT: Ms. [REDACTED], Section 8 Existing Housing Assistance  
Payments Recipient, Iowa City, Iowa

The last several weeks our Chief Attorney has conferred with Ms. Janice Rutledge of the Legal Services Corporation of Iowa who represents Ms. [REDACTED], your City Attorney, Dave Brown, and Lyle Seydel, your housing authority Housing Coordinator, regarding an interim redetermination of income of Ms. [REDACTED]. Ms. [REDACTED] is no longer employed and an interim redetermination of income will result in a decrease in her share of the rent and, therefore, an increase in housing assistance payments. While such redeterminations should be made effective as soon as possible to prevent any hardship to the Section 8 recipient, this one has been subject to considerable discussion and delay, and to date has resulted in two letters dated April 24, 1986, and May 7, 1986, advising Ms. [REDACTED] or her counsel of a new tenant payment.

It is regretful that we find your housing authority to be in non-conformance with our Annual Contributions Contract in adhering to HUD rules and regulations, most specifically in regard to Ms. [REDACTED] and more particularly as follows:

1. Mr. Seydel's income redetermination in the May 7, 1986, letter included \$20 per week from Ms. [REDACTED]'s mother when the income verification specifically states, "This is to inform you that I try to send [REDACTED] money. Sometimes \$10.00 to \$20.00 weekly." Additionally, an affidavit subscribed and sworn March 19, 1986, from Ms. [REDACTED] states, as amounts received, "casual, sporadic and irregular gifts from my mother. My mother gives me \$10 to \$20 from time to time... I cannot depend on receiving any particular amount from her at any particular time, nor can I depend on her generosity extending indefinitely into the future."

RECORDED & INDEXED

Despite such statements which lack specificity in amount and regularity of receipt, Mr. Seydel has incorrectly chosen to consider these funds as regular contributions or gifts and included them as income instead of excluding them as "casual, sporadic or irregular gifts." (See 24 CFR 813.106(c)(1)).

2. Neither the May 7, 1986, letter to Legal Services Corporation of Iowa nor the April 24, 1986, letter to Ms. [REDACTED], both of which made determinations of the amount of the Total Tenant Payment or Total Rent, provided notice that if the participant did not agree with the determination, the participant could request an informal hearing on the decision. (See 24 CFR 882.216(b)(3)(ii)).

As has been indicated, there have been to date two letters advising Ms. [REDACTED] or her counsel of redeterminations of her income and her portion of the rent under the Section 8 program. Certain issues raised in the April 24, 1986, letter and a previous April 4, 1986, letter from Mr. Seydel do not appear in the May 7, 1986, letter and would appear to have been reconsidered by the housing authority. However, should these issues attempt to resurface, we provide the following comments:

1. Mr. Seydel's letter of April 24, 1986, in redetermining the recipient's income included a conjectural amount he speculated would be received from ADC at a prospective date anticipated for the delivery of the recipient's expected child. Such assumptions presume the child will be a live birth, the recipient will retain custody of the expected child, and that the welfare agency will provide ADC eligibility and the total amount of aid. 24 CFR 813.106(b)(6) provides in part for the inclusion of income from welfare only as may be certified by the welfare agency as being, in fact, to be paid to the recipient and, then, only to the extent that the welfare agency specifically designates an amount for shelter and utilities. The income and status must not be mere conjecture but based upon real verification of a legal responsibility of the provider of income to the recipient by proper verification as set forth in HUD Handbook 7420.7.
2. Mr. Seydel's April 24, 1986, interim determination letter at paragraph d. and April 4, 1986, letter, second paragraph, suggested that the recipient's eligibility for the Section 8 Existing HAP program is dependent upon the recipient's appeal of her SSI benefits. 24 CFR 812.2(a) defines a disabled person as meeting the criteria of Section 223 of the Social Security Act, 42 U.S.C. 423, and also defines a handicapped person at paragraph (e). The recipient was apparently admitted to the

HAP program as eligible and has been for some time. Whether or not the recipient is to be paid under SSI is not material to the issue as to her mental disability. (See HUD Handbook 7420.7, pages 4-6 and 4-7, paragraphs 4-4a.(1)(a) 1 and 2 and (c)).

In light of the foregoing conclusions, we instruct you to reverse the interim redetermination of the referenced recipient to the date of her initial request and enter a properly justified income redetermination in accord with this communication and the cited regulations and Handbook provisions.

Sincerely,

*JL* *WR*  
Jerry L. Bauer  
Manager

Enclosures

cc:

Mr. Dave Brown

Mr. Dale Helling

~~Ms. Janice Rutledge~~

DECISION OF INFORMAL HEARING PANEL

██████████ Appeal  
Date: June 13, 1986

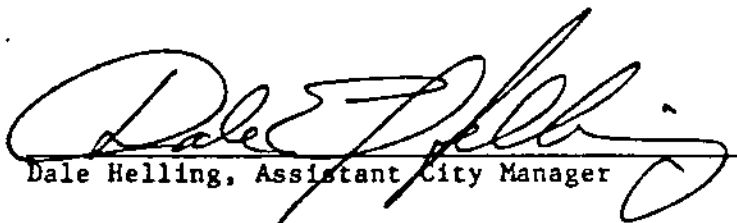
Panel Members: Dale Helling, Doug Boothroy, Mary Joan Streb

On June 11, 1986, this Informal Hearing Panel heard an appeal from ██████████ who asked the panel to determine if a decision rendered by the Iowa City Housing Authority was correct according to rules and regulations. The issue considered was in regard to the participant's income; specifically, should contributions made to the participant by her mother be counted as income?

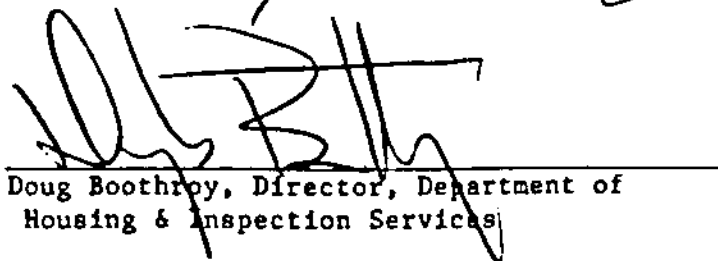
After hearing evidence from both the participant, who was represented by counsel, and the Iowa City Housing Authority Housing Coordinator, Lyle Seydel, the panel considered the information presented and made the following decision:

- 1) That the participant did not appear for recertification prior to April 8, 1986, and is consequently not entitled to adjusted benefits prior to that date.
- 2) That the Housing Coordinator made a reasonable determination based on rules and information available to him, and that the money in question is to be considered as income.
- 3) Notwithstanding numbers 1 and 2 above, the May 21, 1986, letter from Jerry Bauer of the Des Moines Office of the Department of Housing and Urban Development states that the money in question is not considered income and should not be counted as such. Therefore, this directive supersedes the decision rendered by the Iowa City Housing Authority and by this Hearing Panel, and the Housing Authority must either abide by that decision and act accordingly or contest the decision.
- 4) That if the Housing Authority decides to follow the HUD directive, the amount of the participant's income should be reassessed regarding total tenant payment.

Signed:

  
Dale Helling, Assistant City Manager

6/20/86  
Date

  
Doug Boothroy, Director, Department of  
Housing & Inspection Services

6-20-86  
Date

  
Mary Joan Streb, Housing Commission Member

6/20/86  
Date