



310 N. Sixth Street
DeKalb, IL 60115
Phone: 815-758-2692
Fax: 815-758-4190
www.dekcohousing.com

HCV GROUNDS FOR TERMINATION

PLEASE READ CAREFULLY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. This document provides information on mandatory and permissible terminations of assistance.

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA in writing

Family No longer Needs Assistance 24 CFR 982.455

- 1) As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance automatically terminates 180 days after the last HAP payment.
 - a) If a family submits a Request for Tenancy Approval to move to a new unit during the 180- day period when no HAP is being paid to the current landlord, the rent and utilities for the new unit must be sufficient to necessitate a housing assistance payment. The PHA will not approve a move to a new unit where no HAP will be paid

Mandatory Termination of Assistance

Eviction 24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)

- 2) The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.
 - a) A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.
 - b) If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases, the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures.
 - c) *Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

- 3) The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

- 4) The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]

- 5) The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number

Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)]

- 6) The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

- 7) Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

- 8) The PHA must immediately terminate program assistance for deceased single member households.



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Mandatory Policies & Other Authorized Reasons for Termination [24 CFR 982.553(b) and 982.551(I)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- 9) Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- 10) Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- 11) Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- 12) Any household member has violated the family's obligation not to engage in violent criminal activity

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005 (c)]

The PHA **will** terminate a family's assistance if:

- 13) The family has failed to comply with any family obligations under the program.
- 14) Any family member has been evicted from federally assisted housing in the last five years.
- 15) Any PHA has ever terminated assistance under the program for any member of the family.
- 16) Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- 17) The family currently owes rent or other amounts to any PHA in connection with Section 8, public housing, or any other federally sponsored housing programs.
- 18) The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- 19) The family has breached the terms of a repayment agreement entered with the PHA.
- 20) A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.
 - a) *Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
 - b) *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

Family Absence from the Unit [24 CFR 982.312]

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated.

Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.



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Informal Hearings for HCV Participants

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- 1) A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- 2) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- 3) A determination of the family unit size under the PHA's subsidy standards
- 4) A determination to terminate assistance for a participant family because of the family's actions or failure to act
- 5) A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- 6) A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR

Circumstances for which an informal hearing is **not** required are as follows:

- 7) Discretionary administrative determinations by the PHA
- 8) General policy issues or class grievances
- 9) Establishment of the PHA schedule of utility allowances for families in the program
- 10) A PHA determination not to approve an extension or suspension of a voucher term
- 11) A PHA determination not to approve a unit or tenancy
- 12) A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- 13) A PHA determination that the unit is not in accordance with HQS because of family size
- 14) A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract
 - a) **PHA Policy:** The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations.



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Notice to the Family [24 CFR 982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

- 15) A request for an informal hearing must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA's decision or notice to terminate assistance.
- 16) The PHA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.
- 17) The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.
- 18) If the family does not appear at the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

- 19) Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing.
 - i) **PHA Policy:** The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.
 - ii) The PHA must be given an opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the PHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision. Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative and any witnesses for the PHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability

Evidence [24 CFR 982.555(e)(5)]

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.