

*Cross Reference: 24 CFR 982.502; 24 CFR 5.630 (b) (2) (ii) (A) (B)

9A. GENERAL

After October 1, 1999, HACK will issue only vouchers to applicants, movers, and families entering the jurisdiction through portability. Certificates currently held will continue to be honored until the transition of the merger of the Section 8 Certificate and Voucher programs as outlined in CFR 982.502 is complete (see for Chapter 6 for additional guidance).

9B. RENT REASONABLENESS

HACK will not approve an initial rent or a rent increase in any of the tenant-based programs without determining that the rent amount is reasonable. Reasonableness is determined prior to the initial lease and at the following times:

1. Before any increase in rent to owner is approved;
2. If 60 days before the contract anniversary date there is a 5% decrease in the published FMR as compared to the previous FMR; and
3. If HACK or HUD directs that reasonableness be re-determined.

9C. COMPARABILITY

In making a rent reasonableness determination, HACK will compare the rent for the unit to the rent of comparable units in the same or comparable neighborhoods. HACK will consider the location, quality, size, number of bedrooms, age, amenities, housing services, maintenance and utilities of the unit and the comparable units.

HACK will maintain current survey information on rental units in the jurisdiction. HACK will also obtain from landlord associations and management firms the value of the array of amenities.

Owners are invited to submit information to the survey at any time. Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that will enable HACK to establish a higher value.

The owner must certify the rents charged for other units. By accepting the housing assistance payment each month the owner is certifying that the rent to owner is not more than the rent charged by the owner for comparable unassisted units in the premises.

9D. MAXIMUM SUBSIDY

The Fair Market Rent (FMR) is published by HUD or the exception payment standard rent (if requested by HACK and approved by HUD) determines the maximum subsidy for a family.

For a regular tenancy under the Certificate Program, the FMR exception rent limit is the maximum initial gross rent under the assisted lease. This only applies until the transition of the merger of the Section 8 Certificate and Voucher programs as outlined in 24 CFR 982.502 is complete.

The ability to approve a voucher payment standard of not more than 120% of the FMR without HUD approval, if requested as a reasonable accommodation by the family that includes a person with disability.

For a voucher tenancy in an insured or non-insured 236 project, a 515 project of the Rural Development Administration, or Section 221(d)(3) below market interest rate project the payment standard may not exceed the basic rent charged including the cost of tenant-paid utilities.

For a manufactured home space rental, the maximum subsidy under any form of assistance is the Fair Market Rent for the space as outlined in 24 CFR 982.888.

1. Setting the Payment Standard

HUD requires the payment standard be set by HACK at between 90 and 110% of the FMR. HACK will review its determination of the payment standard annually after publication of the FMRs. HACK will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of voucher holders in finding units, and the percentage of annual income families are paying for rent under the Voucher Program. If it is determined that success rates will suffer or that families are having to rent low quality units or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships.

Payment standards will not be raised solely to allow the renting of luxury quality units.

If successful levels are projected to be extremely high and rents are projected to be at or below 30% income, HACK will reduce the payment standard. Payment

standards for each bedroom size are evaluated separately so that the payment standard for one-bedroom size may increase or decrease while another remains unchanged. HACK may consider adjusting payment standards at times other than the annual review when circumstances warrant.

Before increasing any payment standard, HACK will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

2. Selecting the Correct Payment Standard for a Family

- a. For the Voucher tenancy, the payment standard for a family is the lower of:
 - i. The payment standard for the family unit size; or
 - ii. The payment standard for the unit size rented by the family.
- b. If the unit rented by a family is located in an exception rent area, HACK will use the appropriate payment standard for the exception rent area.
- c. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination.

3. Area Exception Rents

In order to help families find housing outside areas of high poverty or when voucher holders are having trouble finding housing for lease under the program, HACK may request that HUD approve an exception payment standard rent for certain areas within its jurisdiction. The areas may be of any size, though generally not smaller than a census tract. HACK may request one such exception payment standard area or many. Exception payment standard rent authority may be requested for all or some unit sizes, or for all or some unit types.

When an exception payment standard rent has been approved and the FMR increases, the exception rent remains unchanged until such time as HACK requests and HUD approves a higher exception payment standard rent. If the FMR decreases, the exception payment standard rent authority automatically expires.

4. Exception Payment Standard for providing reasonable Accommodations

HACK may approve a payment standard or not more than 120 percent of the FMR, without HUD approval, if requested as a reasonable accommodation by a family that includes a person with disability. A family requesting a reasonable accommodation must make a request in writing and provide supporting documentation from medical professional. HACK will maintain documentation that shows

- a. A rent reasonableness analysis was conducted in accordance with HCV program regulations;
- b. The family requested lease approval and requested an exception payment standard as a reasonable accommodation; and
- c. The unit has features that meet the need of a family member with disabilities.

9E. ASSISTANCE AND RENT FORMULAS

1. Total Tenant Payment

The total tenant payment (TTP) is equal to the highest of:

- a. 10% of monthly income
- b. 30% of adjusted monthly income
- c. Minimum rent
- d. The welfare rent plus any rent above the payment standard.

2. Minimum Rent

The minimum rent is \$50.00. However, if the family requests a hardship exemption, HACK will suspend the minimum rent for the family beginning the month following the family's hardship request. HACK staff will request documentation of the hardship and will promptly determine whether there is a qualifying financial hardship, and whether such hardship is temporary or long term. (24C.F.R. 5.630(b)(2)(ii)(A).) During the suspension, the family will not be required to pay a minimum rent and the Housing Assistance Payment will be increased accordingly.

- a. A hardship exemption may must be requested through a written form indicating that the tenant is unable to pay the rent due to a hardship. If HACK becomes aware of information that a hardship may exist, HACK will provide the hardship exemption request form to the participant. A hardship exists in the following circumstances (24 C.F.R. 5.630(b)):
1. When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program, including a family that includes a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;
 2. When the family would be evicted because it is unable to pay the minimum rent;
 3. When the income of the family has decreased because of changed circumstances, including loss of employment;
 4. When a death has occurred in the family.
 5. Other circumstances determined by HACK or HUD.
- b. Temporary Hardship:
- If HACK determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90-day period, minimum rent will be imposed retroactively to the time of suspension. HACK will offer a reasonable repayment agreement for any minimum rent back payment paid by HACK on the family's behalf during the period of suspension.
- c. A family may not be entitled to a hardship exemption if the family's TANF benefits have been reduced due to sanctioning, fraud, failure to participate in an economic self-sufficiency program, or failure to comply with a work activity requirement. HACK staff must obtain written verification from the Dept. of Human Services in order to deny the hardship exemption.
- d. Long-term hardship

If HACK determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.

- e. HACK will provide a Notice of Action concerning minimum rent including the tenant's right to an informal hearing (refer to Chapter 11 for additional notice and hearing requirements).
- f. Appeals

The family may use the informal hearing procedure to appeal HACK's determination regarding the hardship. No escrow deposit will be required in order to access the informal hearing procedures. Notice of the right to informal hearing will be pursuant to Chapter 11.

3. Section 8 Merged Vouchers

- a. The payment standard is set by HACK between 90% and 110% of the FMR or higher or lower with HUD approval.
- b. The participant pays the greater of the Total Tenant Payment or the minimum rent, plus the amount by which the gross rent exceeds the payment standard.
- c. No participant, when initially receiving tenant-based assistance on a unit, shall pay more than 40% of their monthly adjusted income.

4. Section 8 Preservation Vouchers

1. Payment Standard

- a. The payment standard is lower of:
 - 1. The payment standard amount for the appropriate family unit size; or
 - 2. The payment standard amount for the size of the dwelling unit actually rented by the family.
- b. If the dwelling unit is located in an exception area, HACK will use the appropriate payment standard for the exception area.

- c. At the next regular reexamination following a change in family composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:
 1. The new family unit size must be used to determine the payment standard.
2. HACK will pay a monthly housing assistance payment on behalf of the family that equals the lesser of:
 - a. The payment standard minus the total tenant payment; or
 - b. The gross rent minus the total tenant payment.
5. **Manufactured Home Space Rental: Section 8 Vouchers**
 1. The payment standard for a participant renting a manufactured home space is the published FMR for rental of a manufactured home space.
 2. The space rent is the sum of the following as determined by the Housing Authority:
 - a. Rent to the owner for the manufactured home space;
 - b. Owner maintenance and management charges for the space; and
 - c. Utility allowance for tenant paid utilities.
 1. The participant pays the rent to owner less the HAP.
 2. HAP equals the lesser of:
 - a. The payment standard minus the total tenant payment; or
 - b. The rent paid for rental of the real property on which the manufactured home owned by the family is located.
6. **Rent for Families under the Non-Citizen Rule**

A mixed family will receive full continuation of assistance if all of the following conditions are met:

1. The family was receiving assistance on June 19, 1995;
2. The family was granted continuation of assistance before November 29, 1996;
3. The family's head or spouse has eligible immigration status; and
4. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

If a mixed family qualifies for prorated assistance but decides not to accept it, or if the family has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision the family receives full assistance. If assistance is granted under this provision prior to November 29, 1996, it may last no longer than three years. If granted after that date, the maximum period of time for assistance under the provision is 18 months. HACK will grant each family a period of 6 months to find suitable affordable housing. If the family cannot find suitable affordable housing, HACK will provide additional search periods up to the maximum allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

The family's assistance is prorated in the following manner:

1. Find the prorated housing assistance payment (HAP) by dividing the HAP by the total number of family members, and then multiplying the result by the number of eligible family members.
2. Obtain the prorated family share by subtracting the prorated HAP from the gross rent (contract rent plus utility allowance).
3. The prorated tenant rent equals the prorated family share minus the full utility allowance.

9F. UTILITY ALLOWANCE

HACK maintains a utility allowance schedule for all tenant-paid utilities (except telephone), for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)).

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, HACK uses normal patterns of consumption for the community as a whole and current utility rates.

HACK reviews the utility allowance schedule annually and revises any allowance for a utility category if there has been a change of 10% or more in the utility rate since the last time the utility allowance schedule was revised. HACK maintains information supporting the annual review of utility allowances and any revisions made in its utility allowance schedule.

HACK uses the appropriate utility allowance for the lesser size of dwelling unit actually leased by the family or the voucher size issued, as determined under HACK subsidy standards.

At each reexamination, HACK applies the utility allowance from the most current utility allowance schedule.

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, HACK will use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. HACK will approve a request for a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

The utility allowance will be subtracted from the family's share to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the owner. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belongs to the tenant.

9G. DISTRIBUTION OF HOUSING ASSISTANCE PAYMENTS

HACK pays the owner the lesser of the Housing Assistance Payment (HAP) or the rent to

owner. If payments are not made when due, the owner may charge HACK a late payment, agreed to in the Contract and in accordance with generally accepted practices in HACK's jurisdiction.

9H. LATE FEE PAYMENT TO OWNER

All of the following conditions must be met before compensation will be made to the owner when Housing Assistance Payments are late:

1. Payments will be made only after ten (10) days (beginning from the first working day of the month) has elapsed.
2. Reimbursement will be in the amount of the actual late payment assessed (or equivalent loss) each owner and only to those who request it, in writing, to the Finance Department and provide documentation. In cases where only a percentage of the property is under Section 8 contract, the late fee will be prorated accordingly.
3. Once envelopes are postmarked, our obligation satisfied. (The agency cannot be held responsible for the United States Postal Service.)
4. Not applicable in cases where HAP Funds are delayed from HUD. (The agency cannot be held responsible for HUD's actions. HAP Contracts with owners are contingent upon HUD's funding.)
5. No payment of late fees will be made if the HAP Payment has been placed on Hold.

9I. CHANGE OF OWNERSHIP

HACK requires a written request by the owner who executed the HAP contract in order to make changes regarding who is to receive HACK's rent payment or the address as to where the rent payment should be sent.

In addition, HACK requires a written request from the new owner to process a change of ownership. The following documents must accompany the written request:

- a. Deed of Trust showing the transfer of title; and
- b. Tax Identification Number or Social Security Number.

New owners will be required to execute IRS form W-9. HACK may withhold the rent payment until the Taxpayer Identification Number is received.