

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. It is acknowledged there is a severe shortage of available housing both within and outside of BHA's programs which impacts BHA's administration of such programs. This chapter sets forth HUD regulations and BHA policies governing moves within or outside BHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under BHA's HCV program, whether the family moves to another unit within BHA's jurisdiction or to a unit outside BHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into BHA's jurisdiction. This part also covers the special responsibilities that BHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give BHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The Violence Against Women Reauthorization Act of 2005 provides that "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit" [24 CFR 982.353(b)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

BHA Policy

- If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give BHA a copy of the termination agreement.
- BHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- BHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, BHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which BHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a BHA may deny a family permission to move and two ways in which a BHA may restrict moves by a family. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, already moved out of a unit in violation of the lease, if such move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit. [24 CFR 982.314 (b)(4)]. Policies that prohibit moves during the initial lease term or that prohibit more than one move during any one-year period do not apply when the family or a member of the family has been the victim of domestic violence, dating violence, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member.

Denial of Moves

HUD regulations permit BHA to deny a family permission to move under the following conditions:

Insufficient Funding

BHA may deny a family permission to move if BHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice PIH 2008-43 significantly restricts the ability of BHAs to deny permission to move under portability due to insufficient funding. The requirements found in this notice are mandatory. **For moves outside BHA's jurisdiction under portability, no policy decisions are required.**

BHA Policy

BHA will deny a family permission to move on grounds that BHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or BHA; (b) BHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) BHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

Before denying a family's request to move due to insufficient funding under portability, BHA will contact the receiving PHA to see if the receiving PHA will absorb the family; if so, the family will be allowed to move (PIH 200-43)

If BHA denies a family's request to move under portability, it may not subsequently admit any additional families to its voucher program until BHA has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its portability move (PIH 2008-43)

Grounds for Denial or Termination of Assistance

BHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

BHA Policy

If BHA has grounds for denying or terminating a family's assistance, BHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. Refer to sections 3-III.E, 3-III.G and 12-II.E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit BHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit BHA to prohibit more than one elective move by a participant family during any 12-month period.

BHA Policy

BHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within BHA's jurisdiction or outside it under portability.

However, under extenuating circumstances, and with landlord agreement to terminate the lease early; or notification of VAWA status; BHA may permit a move prior to the end of the 12 month lease term. Exceptions may include the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs); or with landlord conduct making continued occupancy dangerous; or to address an emergency situation over which a family has no control.

In addition, BHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

If a landlord refuses to sign a termination of lease, BHA will suggest that the assisted household seek legal support from a local legal advocacy agency such as East Bay Community Law Center or Bay Area Legal Aid, to identify whether the refusal is in good faith, discriminatory, retaliatory, or otherwise legal.

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify BHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside BHA's jurisdiction under portability, the notice to BHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2008-43]. The notices must be in writing [24 CFR 982.5].

Approval

BHA Policy

Upon receipt of a family's notification that it wishes to move, BHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. BHA will not allow a family to port-out of the jurisdiction if the family has an outstanding debt to BHA. BHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

If BHA has received a copy of a court judgement from the landlord, documenting that the family owes the landlord funds under the lease, BHA will encourage the family to enter into a repayment agreement with the landlord prior to approving the move [982.552]. If the family has VAWA status, or an approved Reasonable Accommodation-supported need for the move while still owing funds to the landlord, BHA will allow the move regardless of the funds owed. BHA will encourage any households in this situation to seek free legal assistance from a local housing advocacy organization such as Bay Area Legal Aid or East Bay Community Law Center, including examining and considering circumstances of any judgment against the tenant, including whether or not it was obtained by default, whether the family had legal representation, if it was after contested proceedings, or whether the family cannot enter repayment plan prior to moving due to financial hardship.

Reexamination of Family Income and Composition

BHA Policy

For families approved to move to a new unit within BHA's jurisdiction, BHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, BHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

BHA Policy

For families approved to move to a new unit within BHA's jurisdiction, BHA will require the family to attend a briefing prior to issuance of a voucher. BHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration.

If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and BHA approves.

For families moving into or families approved to move out of BHA's jurisdiction under portability, BHA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, BHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

BHA Policy

If the family vacates the unit with notice, the owner is entitled to rental subsidy through the end of the notice but no later than the end of the month when the family vacated. If the family moves without notice, BHA will pay the rental subsidy through the end of the month. Circumstances for VAWA victims will be taken into consideration where the family had to move without providing proper notice, and where BHA may be able to provide rental subsidy.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA**. The second is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside PHA's jurisdiction under portability. However, HUD gives PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

BHA Policy

In determining whether or not to deny an applicant family permission to move under portability because BHA lacks sufficient funding or has grounds for denying assistance to the family, BHA will follow the policies established in section 10-I.B of this chapter.

In addition, BHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

BHA Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in BHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in BHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

BHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2).

Participant Families

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)]. Additional exceptions including landlord conduct creating dangerous living conditions shall also be considered.

BHA Policy

BHA will determine whether a participant family may move out of BHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here

and in sections 10-I.A and 10-I.B of this chapter. BHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2008-43].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2008-43].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

BHA Policy

For a participant family approved to move out of its jurisdiction under portability, BHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information, or the family reports a change in income, household composition or allowable expenses.

BHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require BHA to provide information on portability to all applicant families that qualify to lease a unit outside BHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

BHA Policy

No formal briefing will be required for a participant family wishing to move outside BHA's jurisdiction under portability. However, BHA will provide the family with a general explanation of portability (see Chapter 5). BHA will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. BHA will advise the family that they will remain subject to BHA's policies and

procedures, through the end of the assisted tenancy in Berkeley, and subject to the rules, regulations and policies of the receiving PHA with regard to the new assisted tenancy.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, BHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

BHA Policy

For families approved to move under portability, BHA will issue a new voucher within 10 business days of BHA's written approval to move.

The term of the voucher will be 120 days.

Voucher Extensions and Expiration

BHA Policy

BHA will consider extensions to a voucher issued to an applicant or participant family porting out of BHA's jurisdiction under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2008-43]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

BHA Policy

Because the portability process is time-sensitive, BHA will notify the receiving PHA by phone, fax, or e-mail that a family is porting to their jurisdiction. BHA will give the family written notification to contact and request assistance from the receiving PHA. BHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. BHA will pass this information along to the family. BHA will also ask for the name, address, telephone number, fax and e-mail of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2008-43]
- A copy of the family's voucher [Notice PIH 2008-43]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2008-43]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2008-43]

BHA Policy

In addition to these documents, BHA will, utilizing appropriate means of protecting the data from breach, provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all family members age 6 and over

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

A copy of the family's current EIV data in a sealed envelope, marked "confidential"

Any approved Reasonable Accommodation

BHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2008-43]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

BHA Policy

If BHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA fails to respond within 10 business days of BHA's

contact or attempted contact, or reports that the family is not yet under HAP contract, BHA will inform the receiving PHA that it may not honor a late billing submission and may return any subsequent billings that it receives on behalf of the family. BHA will send the receiving PHA a written confirmation of its decision by mail.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2008-43]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

BHA Policy

BHA will process the initial payment to the receiving PHA within 30-calendar days of receipt of HUD-52665. Subsequent payments will be made monthly, on or before the 5th working day of the month.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2008-43].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2008-43]. (See later under "Absorbing a Portable Family" for more on this topic.)

BHA Policy

Within 10 business days after a portable family requests assistance, BHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2008-43]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2008-43].

BHA Policy

BHA will ~~not~~ require the family to attend an individual or group briefing. BHA will provide the family with a briefing packet (as described in Chapter 5) and will orally inform the family about BHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2008-43, 24 CFR 982.201(b)(4)]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

BHA Policy

BHA will require every family moving into the jurisdiction to complete a "Personal Declaration". BHA will compare the information reported on the Personal Declaration to

the information on the 50058 from the initial PHA. If there are no discrepancies, BHA will base assistance on information provided by the initial PHA.

If there are discrepancies in the household composition or income, BHA will:

- a) Ask the family to explain the discrepancy;
- b) Return the packet to the initial PHA for revision;
- c) Update the information (i.e. apply new SS/SSI benefit amount); or
- d) Conduct a new reexamination (i.e. the family was employed out of State before moving to BHA's jurisdiction) BHA will allow the family to begin its housing search, while BHA conducts a reexamination.

In conducting its own reexamination, BHA will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Depending on the stability of the income at the time the portability request is processed, BHA may ask the family to complete a new Personal Declaration, and report current income 90-days after the start of tenancy. This may trigger a revision in the family rent portion.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2008-43].

BHA Policy

When a family ports into its jurisdiction, BHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with BHA's procedures. BHA will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

BHA Policy

BHA's voucher will not expire earlier than 30 calendar days from the expiration date of the initial PHA's voucher term. (*Ref: Letter to PHA ED's dated 9/15/2015*)

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2008-43]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

BHA Policy

BHA generally will not extend the term of the voucher that it issues to an incoming portable family unless BHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

BHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

BHA will also consider the extreme shortage of available housing as a factor it considers in its decision of whether or not to grant additional search time.

If BHA is issuing the family a voucher whose term extends beyond the date of the initial PHA's voucher, BHA will inform the family that the extension of search time provided by BHA's voucher is only valid for the family's search in BHA's.

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2008-43]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2008-43].

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later

than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2008-43]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

BHA Policy

BHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [Notice PIH 2008-43].

Ongoing Notification Responsibilities [Notice PIH 2008-43, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

BHA Policy

BHA will send a copy of the updated HUD-50058 by regular mail at the same time BHA and owner are notified of the reexamination results.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2008-43]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by

memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2008-43]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2008-43.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [Notice PIH 2008-43].

BHA Policy

If BHA elects to deny or terminate assistance for a portable family, BHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. BHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. BHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2008-43].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family [Notice PIH 2008-43].

BHA Policy

If BHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, BHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If BHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.