




Berkeley Housing Authority

1947 Center St., 5th Floor, Berkeley, CA 94704
Telephone: (510) 981 5470 Fax: (510) 981 5480

Item 7G
NEW BUSINESS
April 14, 2022

Office of the Executive Director

To: Honorable Chair and Members of the Berkeley Housing Authority Board
From:  Rachel Gonzales-Levine, Acting Executive Director
Subject: Overhoused Rule Exception Procedure

Background

Subsidy standards is a term found in HUD regulations, and therefore HCV program operations, that describes how housing authorities determine unit voucher size for households. HUD rules state that housing authorities are to utilize funding in a way that provides for the smallest number of bedrooms needed to house a family without overcrowding; and they must be applied consistently for all families of like size and composition.

The family voucher size, as determined by the subsidy standard, is used to determine the maximum rent subsidy, in other words, the Payment Standard minus the tenant rent portion. HUD requires the applicable Payment Standard to be the lower of either the voucher size for the family, or unit rented by the family (if fewer number of bedrooms than the voucher). A family may choose to rent a unit larger than the voucher size, however, the family must pay the difference between the voucher size and the larger unit size, so they must be able to afford it.

HUD regulations allow for case by case exceptions to the overhoused rules, where “the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances.” BHA’s current policy is to allow overhoused families to remain in their larger sized units until their next annual reexam, at which point the family will have to pay the overage of the larger unit, or move to a right sized unit.

BHA, and housing authorities in Alameda and Contra Costa County, have subsidy standards that allow for:

- 1st Bedroom for Head of Household and spouse/partner, if there is one
- 2nd Bedroom for up to two people, regardless of age or gender

This is called the “two heartbeats” per bedroom standard. Exceptions are made as Reasonable Accommodations for disabled households that qualify—the most common exception being an extra bedroom on the voucher for a 24-hour Live in Aide, for which BHA would cover the overage.

In 2020, a household’s voucher size was downsized from a 3 BR voucher to a 2 BR voucher because one of the family members moved out. The remaining household composition qualified the household for a 2 BR voucher:

- Single parent Head of Household
- 2 children, 1 high school aged female and 1 adult male (siblings).

The household was notified that at the next annual reexam, as is customary, the voucher size would be reduced to a 2 BR and the household would have to either pay for the difference between the 3 BR Payment Standard and the 2 BR Payment Standard, or move to a right sized unit of their choice. The household indicated that it did not wish to move and at a Board meeting in May 2020 suggested that this is an issue of displacement. The Board asked staff to come back with a procedure that could address this scenario.

Status

In August 2020, staff implemented procedure for exception allowances for households who are overhoused—in other words, living in a unit which exceeds the number of bedrooms on their voucher, and who are required to move to a right-sized unit, or pay the overage of the larger unit size, but who (a) wish to remain in Berkeley; and (b) cannot afford to pay the overage; or (c) who do not qualify for a reasonable accommodation for the extra bedroom. The procedure is attached (Attachment 1).

The family that raised this question is the only family, to the best of staff's knowledge, who has contested the program subsidy standard rules. As evident in the procedure, BHA requires the family to search for a right sized unit and document the reasons why a unit does not suit their needs. But after the one year is up, the family will have to pay the overage or move to a right sized unit. They have benefitted from a longer than specified exemption from paying the overage of the larger unit size than they qualify for, with BHA paying that overage, due to the pandemic.

Staff believes that the procedure addresses the concerns about displacement, in that it requires BHA to pay the overage for the rent portion that the family would normally be required to pay for a year beyond their annual reexam when the family would normally be required to pay, including sufficient time to gain employment prospects; as well, households may choose to locate a unit in Berkeley, preventing displacement from the City of Berkeley, should they identify a unit that suits their needs; and lastly, staff understands that in the non-subsidized rental market, households have to work with what they can afford to rent – which could mean utilizing the living room as a sleeping room, as HUD allows to occur, and which many non-assisted households must do, or having children sleep in a parent's room, if a larger unit is cost prohibitive.

Attachments:

1. BHA Overhoused Exception Procedure