

# HOUSING JUSTICE

National Housing Law Project

Newsletter November 2009

## Public Housing Agency Plans Part III: The Admissions and Continued Occupancy Plan

In Parts I and II of this series of newsletters focusing on public housing agency (PHA) plans, we provided an overview of the PHA planning process and a detailed look at the Section 8 Administrative Plan. This newsletter will focus on the Admissions and Continued Occupancy Plan (ACOP), which contains the policies that the PHA uses in administering its public housing program. These policies are often similar to or even identical to the policies contained in the Administrative Plan. As a result, most of the suggestions made in Part II of this series of newsletters regarding the Administrative Plan will apply equally to the ACOP.

In reviewing the ACOP, advocates should look at the sections in the October newsletter that address the following topics: Admissions Preferences; Admissions Criteria; Family Breakup; Termination of Assistance; Certification of Domestic Violence and Confidentiality; Definitions of Domestic Violence, Dating Violence, and Stalking.

However, there are also several issues that are unique to the public housing ACOP that advocates should review and comment upon. These issues, which are discussed in detail below, include screening of applicants, emergency transfers, splitting the lease, and damages to the unit.

### Screening of Applicants

PHAs are responsible for screening the tenancy and credit history of applicants to the public housing program. Many PHAs consider factors such as whether the applicant has paid rent and utilities

on time, whether the applicant has a pattern of disturbing neighbors or destroying property, and whether the applicant has a pattern of evictions. Such screening policies may have the effect of excluding survivors who have negative tenancy or credit history due to acts of violence or financial abuse committed against them. Advocates should urge PHAs to consider whether an applicant would be suitable for public housing but for a negative history caused by domestic violence. If inquiries reveal that the negative history was the consequence of domestic violence, the PHA should not deny the household assistance on the basis of this information. Any inquiries regarding domestic violence should make clear that members of applicant households have a right to confidentiality.

### Emergency Transfers

Domestic violence survivors living in public housing may need to move or “transfer” to another public housing unit to protect their safety. PHAs set forth their policies regarding public housing transfers in the ACOP. In many jurisdictions, unless a tenant qualifies for an emergency or priority transfer, the tenant may have to wait several weeks or even months before the transfer is granted. Advocates should therefore ask PHAs to adopt policies that provide emergency transfers or Section 8 vouchers for public housing tenants who are at significant risk of harm as a result of incidents or threats of domestic violence. This approach has been encouraged by HUD in its Public Housing Occupancy Guidebook, which states that “PHAs may adopt a transfer policy that includes a preference for victims of domestic violence who

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wish to move to other neighborhoods or even other jurisdictions. One tool PHAs may choose to use is the issuance of a voucher to the victimized family.”

To ensure that survivors are granted transfers in a timely fashion, advocates should recommend that PHAs act on domestic violence transfer requests within a certain timeframe, such as 10 business days. Finally, advocates should ask PHAs to adopt a policy that the address to which a domestic violence survivor has relocated will be kept strictly confidential and will not be shared with any person outside the PHA unless the survivor voluntarily waives confidentiality.

It should be noted that at least one court has found that a PHA was not obligated to provide a transfer to a domestic violence survivor where the PHA’s ACOP did not provide for such transfers. Under the PHA’s ACOP, the only crime victims who were eligible for transfers were victims of federal hate crimes. Accordingly, advocates should press for policies that explicitly state that incidents of domestic violence are grounds for an emergency or priority transfer.

#### **Splitting the Lease**

VAWA provides that a PHA may split or “bifurcate” a public housing lease to evict a perpetrator of domestic violence without evicting the victim of such violence. Advocates should ask PHAs to incorporate this language into the ACOP.

By analogy, advocates may also consider advocating for policies that allow the PHA to bifurcate an application for admission to public

housing, so that the survivor may remain on the waitlist upon leaving the abuser.

#### **Damages to the Unit**

Survivors of domestic violence living in public housing often lack the funds needed to pay for damages their batterers cause to their units. As a result, these survivors may face eviction for failing to reimburse the PHA for repairs made to the unit. Advocates should urge PHAs to adopt a policy that where damages to a unit result from an incident of domestic violence, the victim of such violence will not be held liable for such damages. PHAs should instead seek repayment from the perpetrator of such violence.

#### **Public Housing Leases**

In addition to the ACOP, advocates should also urge PHAs to amend their public housing leases to include protections for domestic violence survivors. Under VAWA, public housing leases must include eviction protections for survivors, including a statement that an incident of domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim of that violence. Similarly, public housing leases must include a statement that criminal activity directly relating to domestic violence, dating violence, or stalking shall not be cause for termination of the tenancy if the tenant is a victim of that violence. Further, the lease must contain a statement that the PHA may bifurcate the lease to evict an individual who engages in acts of violence without evicting the victim of such violence. Accordingly, advocates should remind PHAs that they need to add this language to their public housing leases.

#### **Statistic of the Month**

In a survey of 159 service providers throughout the country, 79% reported that at least some of their clients were homeless as a result of foreclosure, and about half estimated that more than 10% of their clients were homeless because of foreclosure on a home they had been occupying.

Foreclosure to Homelessness 2009: The Forgotten Victims of the Subprime Crisis 5, <http://nlchp.org/content/pubs/2009ForeclosuretoHomelessness2.pdf>

#### **Conclusion**

Advocates should ensure that their local housing authority has implemented VAWA’s provisions and that its plans contain policies that will help survivors of domestic violence access and maintain assisted housing. The PHA planning process provides an opportunity for advocates to do so, while simultaneously educating housing authorities on their duties under VAWA. ■

## **Questions & Answers: Homelessness Prevention and Rapid Re-Housing Program**

Homelessness Prevention and Rapid Re-Housing Program (HPRP) funds may be a resource for domestic violence survivors who need help in paying rent, security deposits, utilities, and moving costs. The funds were awarded to states, counties, and cities as part of the American Recovery and Reinvestment Act of 2009. Here are answers to some common questions regarding housing-related assistance under the HPRP program.

### **Who Is Eligible for HPRP?**

To be eligible for HPRP, a household's income cannot exceed 50% of Area Median Income. Further, the household must be either homeless or at risk of losing its home and meet both of the following circumstances: (1) no appropriate subsequent housing options have been identified; AND (2) the household lacks the financial resources and support networks needed to obtain immediate housing or remain in its existing housing.

### **Who Received HPRP Funds?**

A contact list for the jurisdictions that received HPRP funds directly from HUD is available at <http://www.hudhre.info/HPRP/>. Cities or towns that did not receive HPRP funds from HUD may still have received HPRP funds from the state, and advocates should contact the state entity on HUD's list to determine if their jurisdiction received an HPRP grant from the state.

### **How Can Clients Obtain HPRP Funds?**

Using HUD's list of HPRP grantees, advocates can contact the entity in their jurisdiction that received HPRP funds to determine which agencies will be administering the funds. Most jurisdictions distributed their HPRP funds to subgrantees, such as homeless services agencies and domestic violence service providers. Survivors typically must

apply through these subgrantees to receive HPRP assistance.

### **How Can the Funds Be Used?**

Eligible activities for HPRP funds include:

- Short-term, medium-term, or long-term rental assistance (up to 18 months);
- Rental arrearages (up to six months);
- Security deposits;
- Utility deposits;
- Utility payments (up to 18 months);
- Utility arrearages (up to six months);
- Moving costs;
- Motel and hotel vouchers;
- Case management and outreach;
- Housing search and placement;
- Legal services; and
- Credit repair.

### **Can HPRP Be Used to Pay Off Rental Debt to Enable a Household to Obtain New Housing?**

HPRP can be used to pay up to six months of rental and utility arrears, so long as the arrears prevent the household from obtaining housing, and it is likely that the household will be able to maintain the new housing.

### **Can HPRP Be Used to Pay Off Rental Debt to Enable a Household to Maintain Housing?**

HPRP can be used to pay rental arrears for households facing eviction for nonpayment of rent if the payment enables the household to remain in their housing. In cases where eviction cannot be prevented, rental arrears can still be paid if the payment satisfies the evicting landlord and thereby allows the household to obtain different housing.

### **Must a Tenant Have a Lease to Receive HPRP Rental Assistance?**

A lease must be in place and a tenant must be on the lease to use HPRP funds for the rent or security deposit.

**What kinds of legal assistance are eligible activities under HPRP?**

HPRP funds may be used for legal services to help households stay in their homes, such as legal advice and representation in administrative or court proceedings related to landlord/tenant matters or housing issues. Legal assistance related to mortgages is not eligible.

**Is There Any Cap on Relocation Expenses?**

There is no cap on relocation expenses. Additionally, HPRP funds can be used to help clients relocate to a different state, or another area of a state.

**When Can HPRP Funds Be Used for Hotel or Motel Vouchers?**

A hotel or motel voucher can only be used if no appropriate shelter beds are available and subsequent rental housing has been identified but is not immediately available for move-in.

**Are People Living Doubled-Up with Friends or Family Eligible for HPRP?**

Households who are precariously housed may be eligible if they would be homeless but for HPRP assistance.

**What Documentation Is Required to Prove that a Family Is At Risk of Homelessness?**

Grantees are required to maintain documentation of risk of homelessness, but HUD has not prescribed the type of documentation required. Grantees have discretion to target HPRP funds and decide when persons are most likely to become homeless unless they receive HPRP assistance.

**Can HPRP Be Used to Assist Families in Transitional Housing?**

HPRP may not be used to move a household into a transitional housing program, nor may it be used to assist a household residing in a transitional housing program. However, HPRP can be used to assist households that are timing out of transitional housing to obtain permanent housing. ■

Remember to check out NHLP's new [Webpage for LAV Grantees](http://www.nhlp.org/resourcecenter?tid=96) at <http://www.nhlp.org/resourcecenter?tid=96>

The webpage contains a variety of materials designed to help you address housing issues commonly encountered by survivors of domestic violence, sexual assault, and stalking. Examples of these materials include an advocates' toolkit on the housing provisions of the Violence Against Women Act (VAWA), training curricula on the housing rights of survivors of domestic violence and sexual assault, and NHLP's monthly newsletters for LAV grantees.

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**For technical assistance, requests for trainings or materials, or further questions, please contact:**

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