

HOUSING JUSTICE

National Housing Law Project

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HUD Issues Guidance on Public Housing and Section 8 Voucher Waiting Lists

The Department of Housing and Urban Development (HUD) released a notice, PIH 2012-34, regarding waiting lists for public housing and Section 8 vouchers. The notice provides guidance on opening the waiting list, conducting outreach, and placing applicants on the waiting list. The notice may be helpful for domestic violence advocates who have questions regarding the process by which a public housing agency (PHA) opens its waiting list to the public. Further, the notice states that PHAs should consider issuing notifications of waiting list openings to domestic violence programs.

Background

PHAs decide when to open and close their public housing and Section 8 voucher waiting lists. PHAs often open waiting lists if there is not a sufficient number of applicants on the existing lists or if the existing lists are outdated. To be placed on a waiting list for subsidized housing, an applicant typically must complete a preliminary application so that the PHA can determine her eligibility for housing programs. If the information provided by the applicant indicates that she meets the eligibility requirements, the PHA will place her on the waiting list. HUD states that PHAs must establish an application and selection process that treats applicants equitably and effectively determines applicants' eligibility for housing.

Opening the Waiting List

HUD's notice states that PHAs have flexibility to decide whether to keep waiting lists open indefinitely or whether to open waiting lists periodically for a limited time. In making this decision, HUD recommends that PHAs examine whether the list's length makes the wait for housing unreasonably long or whether there is a sufficient number of applicants to ensure that vouchers and public housing units are issued as quickly as possible.

PHAs should consider applicants' safety when opening waiting lists in areas where there is a high demand for public housing and Section 8 vouchers. HUD discourages PHAs from offering only one central location for submitting applications. This practice not only can result in overcrowding, but it also can present concerns for clients who are fleeing domestic violence and cannot safely travel to the application site. Accordingly, HUD suggests that PHAs have multiple application sites and submission mechanisms or have an open application period during which PHAs receive applications by mail. Additionally, HUD advises against opening the waiting list for a limited period, such as a single day, because opening waiting lists for longer periods and making applications available ahead of time are safer and more effective processes.

Placing Applicants on the Waiting List

PHAs have discretion in deciding the method by which they will place applicants on the waiting list. PHAs are not required to place every eligible applicant on the waiting list. In areas where there

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is a large volume of applicants and placing every applicant on the waiting list would result in unrealistic waiting periods, PHAs can conduct a lottery to select a specified number of applicants for the waiting list. If a PHA uses a lottery approach, public notices regarding waiting list openings must clearly state that a lottery will be used.

Additionally, PHAs may open the waiting list only to applicants who qualify for an admissions preference. For example, a PHA that has an admissions preference for domestic violence survivors can choose to open its waiting list only to those who qualify for the domestic violence preference. Preferences must be described in the PHA's plans, and public notices regarding waiting list openings must explain the use of preferences.

Outreach

HUD provides several suggestions for outreach activities that PHAs should conduct to ensure that a broad range of individuals are aware of housing opportunities. For example, PHAs can issue notices regarding waiting list openings to domestic violence programs, general assistance offices, homeless shelters and organizations serving people of color. Additionally, HUD urges PHAs to think creatively and use tools such as social media. Regardless of the method used, PHAs must ensure that notices reach individuals with disabilities and limited English proficient individuals.

In announcing waiting list openings, PHA notices should inform applicants of the time and place to apply, limitations on who may apply, and information needed to submit the application.

Conclusion

Advocates in jurisdictions where PHAs are considering opening waiting lists should review PIH 2012-34 and urge their PHAs to take the steps recommended by HUD. This is especially critical if the PHA is primarily making applications available in-person or has previously failed to conduct adequate outreach to vulnerable populations, such as domestic violence survivors. ■

Court Addresses Family Breakup in the Section 8 Voucher Program

A New York court recently examined termination of a tenant's Section 8 voucher assistance where there had been previous allegations of domestic violence. *In re Herman v. NYC Dep't of Hous. Pres. & Dev.*, 2012 WL 3984482 (Sept. 10, 2012). The NYC Department of Housing Preservation and Development (HPD) sought to terminate the tenant's voucher after his wife alleged that he had committed acts of violence against her. The hearing officer found that the tenant's voucher should not be terminated because there was insufficient evidence of violence.

Subsequently, HPD again sought to terminate the tenant's voucher, this time on the grounds that the family had broken up, and the minor children were no longer living in the household with the tenant. A hearing officer found the termination reasonable because the children no longer resided with the tenant. The tenant sought judicial review of the termination decision.

The tenant argued that HPD was prohibited from terminating his voucher under the Violence Against Women Act (VAWA), and that his wife did not have legal custody of the children as required by HPD's administrative plan. The court first noted that under VAWA, where there are conflicting claims of domestic violence, a housing authority should determine the "true victim" from third-party documentation or court orders. Because the family court matter had not been fully adjudicated, it was appropriate for HPD to withhold its decision regarding VAWA protections VAWA for the tenant.

The court next found that HPD erred in assigning the voucher to the tenant's wife based on the fact that the children lived with her. HPD's administrative plan stated that in the event of family breakup, the family member who has legal custody will retain the voucher. Because there was no court order rendering legal custody of the children, HPD's termination of the tenant's assistance was premature. Accordingly, the court ordered HPD to reinstate the tenant's assistance. ■

The Veteran Affairs Supportive Housing (VASH) Program: An Overview for Advocates

The primary purpose of the HUD Veteran Affairs Supportive Housing (VASH) program is to move veterans and their families out of homelessness. Domestic and sexual violence advocates assisting veterans and their families may encounter the VASH program when helping these individuals seek housing or supportive services. Advocates also may encounter this program if a family with a VASH voucher has broken up due to domestic violence.

VASH combines Section 8 voucher assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at its medical centers and in the community. The participants must be referred to housing authorities by Veterans Affairs Medical Centers (VAMC) before they can receive housing vouchers. The VAMC is responsible for providing substantial case management and housing support to the veteran family.

Generally, the VASH program is administered in accordance with regular Section 8 voucher requirements. There are some unique features, as VASH is designed as a “housing first” program. As a result, housing authorities conduct limited background screening of referred homeless veterans. Typically, VASH participants pay 30 percent of their income toward rent. The housing authority is strongly encouraged to consult the VAMC before terminating the family.

A key component of the VASH program is case management services, which are designed to help the veteran achieve recovery goals. The services include psychiatric services, employment assistance, family support and education, and substance abuse disorder assessments and treatment. Such services may be critical to addressing post-traumatic stress disorder (PTSD) and family stability, as VA research shows that male veterans with PTSD are two to three times more likely than veterans without PTSD to engage in intimate partner violence.

Questions may arise where a family in the VASH program has broken up. HUD guidance states that a participant may be terminated from the HUD-VASH program for committing domestic violence, dating violence, or stalking. If the perpetrator is the veteran, the housing authority must continue to assist the victim with a regular Section 8 voucher or the VASH voucher. In the event of a separation or divorce, the veteran keeps the VASH voucher. This policy is intended to override a housing authority’s policy on how to determine who remains in the program if a voucher family breaks up. However, it does not address the question of how to deal with a separation or divorce that is precipitated by domestic violence. In these cases, advocates should consider asking the court that is adjudicating the divorce or separation to assign the voucher to the victim.

Many homeless veterans face physical, emotional or other challenges that make the goals of securing stable housing and living independently challenging. Homeless veterans may have suffered sexual assault or domestic violence while serving in the military or after release. Such veterans should be encouraged to seek VAMC services and a VASH voucher. Advocates should refer homeless veterans to the VAMC and follow up to determine if they are eligible for a VASH voucher. ■

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