



U.S. Department of Housing and Urban Development Public and Indian Housing

Special Attention of: Directors of HUD Regional and Field Offices of Public Housing; Agencies that Administer the Housing Choice Voucher Program	Notice	PIH 2009- 22 (HA)
	Issued:	July 21, 2009
	Expires:	July 31, 2010

Cross References: Notice PIH
2008-20

Subject: Over Subsidization in the Housing Choice Voucher Program

1. Purpose The purpose of this Notice is to extend and revise Notice PIH 2008-20 (HA). Specifically, the last paragraph under 1.A. in regard to occasional, intermittent, multiple or rotating care givers has been modified and section 1.C. has been added in regard to reasonable accommodation issues.

A. Live-in Aides. The primary reason public housing agencies (PHA) issued vouchers with more bedrooms as recorded on line 12a of the Family Report (form HUD-50058) than the number of family members recorded on line 3t was related to live-in aides. Although a health care provider must document the need for a live-in aide (which would result in the issuance of an additional bedroom size voucher), the live-in aide must be identified by the family and approved by the PHA first.

The definition of a live-in aide is recorded in 24 CFR Section 5.403 which states that a live-in aide is a person who resides with one or more elderly persons, near-elderly persons or persons with disabilities and who is: (1) determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the unit except to provide the necessary supportive services. It should be noted that the definition applies to a specific person. In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the HCV as the remaining member of the tenant family.

In accordance with 24 CFR Section 982.316, the PHA must approve the person identified as the live-in aide. The PHA may disapprove such a person if s/he has: (1) committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) committed drug-related criminal activity or violent criminal activity; or (3) currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act. Additionally, under 24 CFR Section 982.402(a), the PHA must establish subsidy standards to determine the number of bedrooms needed for families of different sizes and compositions. Consequently, PHAs may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the PHA's subsidy standards for an unidentified live-in aide. The guidance outlined in this Notice is in accordance with these regulatory provisions.

Occasional, intermittent, multiple or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances.

B. Other Reasonable Accommodation Issues. A family may always request a reasonable accommodation to permit program participation by individuals with disabilities. A family's composition or circumstances may warrant the provision of an additional bedroom to permit disability-related overnight care and allow the family equal use and enjoyment of the unit. Such limited exceptions to the established subsidy standards are permitted under 24 CFR Section 982.402(b)(8). The PHA must consider requests for an exception to the established subsidy standards on a case-by-case basis and provide an exception, where necessary, as a reasonable accommodation. The PHA shall document the justification for all granted exceptions.

C. Medical Equipment. Although PHAs may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by the PHA during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. However, the PHA may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated.

D. Other Causes. The secondary cause of over subsidization was the failure of the PHA to change the voucher unit size after changes in family composition. Although families are not required to move from an assisted unit when the number of bedrooms in the unit exceed the number of bedrooms for which the family is eligible, the payment standard must conform to the PHA's subsidy standards at the family's next annual recertification after the change in family composition.

2. PIC Data Entry. PHAs are expected to ensure that data on the Family Report (form HUD-50058) is correct when entered in PIC. Whenever there is a change in the subsidy standard and corresponding payment standard for which the family is eligible, lines 12a and 12j of the Family Report must be adjusted accordingly.

3. Effective Date. This Notice is effective upon publication.

4. Implementation. Voucher issuance for new admissions must conform to the guidance and program requirements outlined above. For existing families, PHAs must begin evaluating the number of bedrooms for which the family is eligible and any necessary changes to the payment standard at the family's next annual recertification.

5. Information Contact. Inquiries about this Notice should be directed to the staff in the Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 708-0477.

6. Paperwork Reduction Act. The information collection requirements contained in this letter have been approved by the Office of Management and Budget (OMB) under the Paperwork

Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The following active information collections contained in this Notice have been approved under the PRA - OMB Control Number 2577-0083.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing