

CHAPTER 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the HA's jurisdiction, or to a unit outside of the HA's jurisdiction under Portability procedures. The regulations also allow the HA the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the HA's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

- The assisted lease for the old unit has terminated because the HA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family;
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated);
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to the owner).

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will not be permitted to move within the HA's jurisdiction during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a 12-month period.

The HA will deny permission to move if there is insufficient funding for continued assistance.

The HA may deny permission to move if:

- ✓ The family has violated a Family Obligation;
- ✓ The family owes the HA money.

The Housing Programs Manager may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves, if the family has not been recertified within the last 60 calendar days, the HA will issue the voucher to move after conducting the recertification/as soon as the family requests the move.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the HA proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the HA simultaneously.

For units under a Certificate HAP contract effective before October 2, 1995, if the family vacates the unit without proper notice in writing to the owner, the family will be responsible for any vacancy loss paid by the HA.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move **except that there will be no overlapping assistance.**

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In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease midmonth. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the HA's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the HA's jurisdiction, anywhere in the United States, in the jurisdiction of a HA with a tenant-based program. When a family requests to move outside of the HA's jurisdiction, the request must specify the area to which the family wants to move.

If there is more than one HA in the area in which the family has selected a unit, the HA will choose the receiving HA.

Restrictions on Portability

Applicants

If neither the head nor spouse had a domicile (legal residence) in the HA's jurisdiction at the date of their initial application for assistance, the family **may not** be permitted to exercise portability upon initial issuance of a voucher, unless the HA approves such move. *[NOTE: local government defines legal domicile.]*

Upon initial issuance of a voucher the family must be income eligible under the receiving HA income limits during the initial 12-month period after admission to the program.

Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances.

- ✓ The receiving and initial HA agree to allow the move.
- ✓ The family's move relates to an opportunity for education, job training or employment

The HA will not permit families to exercise portability:

- ✓ If the family is in violation of a family obligation.
- ✓ If the family owes money to the HA.
- ✓ If the family has moved out of its assisted unit in violation of the lease.

Receiving HA's will be required to submit hearing determinations to the HA within 60 calendar days.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The HA will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. If administering, the family will be issued a "Portable" Voucher by the HA. The term of the voucher will not expire before the expiration date of any initial HA vouchers. The family must submit a request for approval of tenancy for an eligible unit to the receiving HA during the term of the receiving HA voucher. The receiving HA may grant extensions in accordance with this Administrative Plan. However, if the Family decides not to lease-up in the HA's jurisdiction, they must contact the initial HA to request an extension.

The HA will absorb all incoming portable families if there is funding available.

When the HA does not absorb the incoming Voucher, it will administer the Initial HA's Voucher and the receiving HA's policies will prevail.

For admission to the program, a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

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The receiving HA does not redetermine eligibility for a portable family that was already receiving assistance in the initial HA Section 8 tenant-based program.

The HA will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Voucher size, the HA will change to the proper size based on its own Subsidy Standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As receiving HA, the HA will conduct a recertification interview but only verify the information provided if the documents are missing or are over 60 calendar days old, whichever is applicable, or there has been a change in the family's circumstances.

If the HA conducts a recertification of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the HA's jurisdiction, the HA will refuse to enter a contract on behalf of the family at \$0 assistance.

Requests for Approval of Tenancy

A briefing will be mandatory for all portability families.

When the Family submits a Request for Tenancy Approval, it will be processed using the HA's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a lease, the Initial HA will be notified within 30 calendar days by the HA.

If the Family leases up successfully, the HA will notify the Initial HA within 30 calendar days, and the billing process will commence.

The HA will notify the initial HA if the family fails to submit a request for approval of tenancy for an eligible unit within the term of the voucher.

If the HA denies assistance to the family, the HA will notify the Initial HA within 30 calendar days and the family will be offered a review or hearing.

The HA will notify the Family of its responsibility to contact the Initial HA if the Family wishes to move outside the HA's jurisdiction under continued portability.

Regular Program Functions

The HA will perform all program functions applicable the tenant-based assistance program, such as:

- ✓ Annual reexaminations of family income and composition;
- ✓ Annual inspection of the unit; and
- ✓ Interim Examinations when requested or deemed necessary by the HA

Terminations

The HA will notify the Initial HA in writing of any termination of assistance within **30 calendar days** of the termination. If an Informal Hearing is required and requested by the Family, the hearing will be conducted by the HA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial HA.

The Initial HA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial HA notifies the HA that the Family is in arrears or the Family has refused to sign a Payment Agreement, the HA will terminate assistance to the family.

Required Documents

As Receiving HA, the HA will require the documents listed on the HUD Portability Billing Form from the Initial HA.

Billing Procedures

As Receiving HA, the HA will bill the Initial HA **monthly** for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and Special Claims will also be **monthly** unless requested otherwise by the Initial HA.

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The HA will bill 100% of the Housing Assistance Payment, 100% of Special Claims and 80% of the Administrative Fee (at the Initial HA's rate) for each "Portability" Voucher leased as of the first day of the month.

The HA will notify the Initial HA of changes in subsidy amounts and will expect the Initial HA to notify the HA of changes in the Administrative Fee amount to be billed.