

CHAPTER 21

PROGRAM INTEGRITY

[24 CFR 792.101 to 792.204, 982.54]

INTRODUCTION

The US Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

The HA is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained.

The HA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This Chapter outlines the HA's policies for the prevention, detection and investigation of program abuse and fraud.

A. Conflict of interest (Sec. 982.161)

1. Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:
 - a. Any present or former member or officer of the PHA (except a participant commissioner)
 - b. Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
 - c. Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
 - d. Any member of the Congress of the United States.
2. Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the PHA and HUD.

B. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the HA undertake an inquiry or an audit of a participating family arbitrarily. The HA's expectation is that participating families will comply with HUD requirements, provisions of the certificate or voucher, and other program rules. The HA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the HA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to the HA's attention, to investigate such claims.

The HA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

- ◆ **Referrals, Complaints, or Tips.** The HA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.
- ◆ **Internal File Review.** A follow-up will be made if HA staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, the HA's knowledge of the family, or is discrepant with statements made by the family.

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- ◆ **Verification of Documentation.** A follow-up will be made if the HA receives independent verification or documentation which conflicts with representations in the family's file (such as public record information or credit bureau reports, reports from other agencies).

C. STEPS THE HA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The HA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

- ☞ **Things You Should Know.** This program integrity bulletin (created by HUD's Inspector General) is available on request to all applicants to promote understanding of program rules, and to clarify the HA's expectations for cooperation and compliance.
- ☞ **Resident Counseling.** The HA will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.
- ☞ **Review and explanation of Forms.** Staff will explain all required forms and review the contents of all (re) certification documents prior to signature.
- ☞ **Use of Instructive Signs and Warnings.** Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse

D. STEPS THE HA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The HA Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews. Prior to initial certification, and at the completion of all subsequent recertifications, **10 % of files** will be reviewed. Such reviews shall include, but are not limited to:

- ☒ **Assurance that verification of all income and deductions is present.**
- ☒ **Changes in reported Social Security Numbers or dates of birth.**
- ☒ **Authenticity of file documents.**
- ☒ **Ratio between reported income and expenditures.**
- ☒ **Review of signatures for consistency with previously signed file documents.**
- ☒ **All forms are correctly dated and signed.**

Observation: The HA Management and Occupancy Staff (to include inspection personnel) will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Observations will be documented in the family's file.

Management and Staff may review public Record Bulletins.

State Wage Data Record Keepers. Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits

E. THE HA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The HA staff will encourage all participating families to report suspected abuse to the Comprehensive Housing Counselor. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The above designated staff member will not follow up on allegations that are vague or otherwise non-specific. They will only review allegations that contain one or more independently verifiable facts.

- a) **File Review.** An internal file review will be conducted to determine:
 - 1. If the subject of the allegation is a client of the HA and, if so, to determine whether or not the information reported HA's been previously disclosed by the family.
- b) It will then be determined if the HA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

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- c) **Conclusion of Preliminary Review.** If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, a further investigation may be initiated to determine if the allegation is true or false.

F. OVERPAYMENTS TO OWNERS

If the landlord HA's been overpaid as a result of fraud, misrepresentation or violation of the Contract, the HA may terminate the Contract and arrange for restitution to the HA and/or family as appropriate.

The HA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the HA or the tenant, as applicable.

G. HOW THE HA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the HA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Chief of Housing to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the HA will secure the written authorization from the program participant for the release of information.

Employers and Ex-Employers: Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

Neighbors/Witnesses: Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the HA's review.

Other Agencies: Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records: If relevant, the HA will review public records. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, credit bureau reports, voter registration, judgments, court or police records, state wage records, utility records and postal records.

Interviews with Head of Household or Family Members: The HA will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate HA office. A high standard of courtesy and professionalism will be maintained by the HA staff person who conducts such interviews. Under no circumstances will the management tolerate inflammatory language, accusation, or any unprofessional conduct or language. If possible, an additional staff person will attend such interviews.

H. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HA

Documents and other evidence obtained by the HA during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate "work file." In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among HA Staff unless they are involved in the process, or have information which may assist in the investigation.

I. CONCLUSION OF THE HA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the Executive Director or designee. It will then be determined whether a violation HA's occurred, a violation HA's not occurred, or if the facts are inconclusive.

J. EVALUATION OF THE FINDINGS

If it is determined that a program violation HA's occurred, the HA will review the facts to determine:

- The type of violation (procedural, non-compliance, fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the family.
- If the family is eligible for continued occupancy.

K. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED

Once a program violation HA's been documented, the HA will propose the most appropriate remedy based upon the type and severity of the violation.

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1. **Procedural Non-compliance.** This category applies when the family "fails to" observe a procedure or requirement of the HA, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family.

Examples of non-compliance violations are:

- Failure to appear at a pre-scheduled appointment.
- Failure to return verification in time period specified by the HA.
 - a) **Warning Notice to the Family.** In such cases a notice will be sent to the family which contains the following:
 1. A description of the non-compliance and the procedure, policy or obligation which was violated.
 2. The date by which the violation must be corrected, or the procedure complied with.
 3. The action which will be taken by the HA if the procedure or obligation is not complied with by the date specified by the HA.
 4. The consequences of repeated (similar) violations.

2. **Procedural Non-compliance - Overpaid Assistance.** When the family owes money to the HA for failure to report changes in income or assets, the HA will issue a Notification of Overpayment of Assistance. This Notice will contain the following:

- A description of the violation and the date(s).
- Any amounts owed to the HA.
- A **10** day response period.
- The right to disagree and to request an informal hearing with instructions for the request of such hearing.
 - a) **Participant Fails to Comply with HA's Notice.** If the Participant fails to comply with the HA's notice, and a family obligation HA's been violated, the HA will initiate termination of assistance.
 - b) **Participant Complies with HA's Notice.** When a family complies the HA's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. The staff person will complete a Participant Counseling Report, give one copy to the family and retain a copy in the family's file.

3. **Intentional Misrepresentations.** When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the HA, the HA will evaluate whether or not:

- a) The participant had knowledge that his/her actions were wrong, and
- b) The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certification, briefing certificate, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrongdoing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- a) An admission by the participant of the misrepresentation.
- b) That the act was done repeatedly.
- c) If a false name or Social Security Number was used.
- d) If there were admissions to others of the illegal action or omission.
- e) That the participant omitted material facts that were known to him/her (e.g., employment of self or other household member).
- f) That the participant falsified, forged or altered documents.
- g) That the participant uttered and certified to statements at an interim (re) determination which were

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later independently verified to be false.

- 4. Dispositions of Cases Involving Misrepresentations.** In all cases of misrepresentations involving efforts to recover monies owed, the HA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

- a) Criminal Prosecution: If the HA has established criminal intent, and the case meets the criteria for prosecution, the HA may:
 - (i) Refer the case to the Local State or District Attorney, notify HUD's RIGI, and terminate rental assistance.

- b) Administrative Remedies: The HA may:
 - (i) Terminate assistance and demand payment of restitution in full.
 - (ii) Terminate assistance and execute an administrative repayment agreement in accordance with the HA's Repayment Policy.
 - (iii) Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the HA's repayment policy.

- 5. The Case Conference for Serious Violations and Misrepresentations.** When the HA HA's established that material misrepresentation(s) have occurred, a Case Conference will be scheduled with the family representative and the HA staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by the HA. The purpose of such conference is to review the information and evidence obtained by the HA with the participant, and to provide the participant an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the HA. The family will be given 10 days to furnish any mitigating evidence.

A secondary purpose of the Participant Conference is to assist the HA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the HA will consider:

- The duration of the violation and number of false statements.
- The family's ability to understand the rules.
- The family's willingness to cooperate, and to accept responsibility for his/her actions
- The amount of money involved.
- The family's past history
- Whether or not criminal intent HA's been established.
- The number of false statements.

- 6. Notification to Participant of Proposed Action.** The HA will notify the family of the proposed action no later than **5 business days** after the case conference.