

## Chapter 11

### REEXAMINATIONS

#### INTRODUCTION

BHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and BHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

#### **PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]**

##### **11-I.A. OVERVIEW**

BHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

##### **11-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

BHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

###### BHA Policy

BHA will begin the annual reexamination process 90-120 days in advance of its scheduled effective date. Generally, BHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination, including a new admission or unit transfer (e.g. February 1<sup>st</sup> is the anniversary date for an Initial contract that became effective on February 12<sup>th</sup>, 2010)

BHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Reexamination Process**

BHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-90026 at this time [Notice PIH 2009-36].

#### BHA Policy

Families generally are required to participate in an annual reexamination by mail or in-office interview. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact BHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination process will be sent by first-class mail and will contain the date, time, and location of the interview, or where the recertification packet must be returned. In addition, it will inform the family of the information and documentation that must be provided.

If the family is unable to attend a scheduled interview or submit the packet by the date specified, the family should contact BHA as soon as possible to make other arrangements. If a family does not attend the scheduled interview, return the packet, or contact BHA to make other arrangements, BHA will send a second notification with a new timeline.

If a family fails to complete the annual recertification process after two attempts without BHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, the family's declared "emergency contact", and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and BHA must execute a certification attesting to the role and assistance of any such third party.

### **11-I.C. CONDUCTING ANNUAL REEXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to BHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

#### BHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will

include a BHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new BHA approved family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, BHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

#### **11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]**

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with BHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

#### BHA Policy

During the annual reexamination process, BHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), BHA will process a reexamination in accordance with the policies in this chapter.

### **11-I.E. EFFECTIVE DATES**

BHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

#### BHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

If the change in income resulting in the lower family rent share is permanent (i.e. a change in SSI benefits), BHA will make the change effective the following month, and adjust the date for the next annual reexamination.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by BHA by the date specified, and this delay prevents BHA from completing the reexamination as scheduled.

## **PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]**

### **11-II.A. OVERVIEW**

Family circumstances may change throughout the period between annual reexaminations. HUD and BHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances BHA must process interim reexaminations to reflect those changes. HUD regulations also permit BHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. BHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and BHA policies describing what changes families are required to report, what changes families may choose to report, and how BHA will process interim reexaminations initiated by both BHA- and the family.

### **11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

BHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, BHA has limited discretion in this area.

#### BHA Policy

BHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

#### **New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require BHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

#### BHA Policy

The family must inform BHA of the birth, adoption or court-awarded custody of a child within 10 business days.

When any new family member is added, BHA ~~must~~ will conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, BHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request BHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, BHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), BHA must issue the family a new voucher, and the family and BHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, BHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

#### BHA Policy

BHA will process and approve a request to add:

- a. Children who join the family as the result of birth, adoption, or court awarded custody.
- b. A spouse/partner, subject to criminal background clearance
- c. A foster child or foster adult if it does not necessitate an increase in the bedroom size, or preservation of a bedroom no longer required to adequately house the assisted family; and
- d. A Live-in aide, subject to BHA's Reasonable Accommodation process and criminal background clearance.

BHA will not approve the addition of a new family or household member as described above unless the individual meets BHA's eligibility criteria (see Chapter 3).

When adding a family member by birth, adoption, or court-awarded custody of a child, the family must provide BHA with documentation determined by BHA to be sufficient to verify the relationship.

BHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

### **Departure of a Family or Household Member**

Families must promptly notify BHA if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], BHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

### BHA Policy

If a household member dies or ceases to reside in the unit, the family must inform BHA within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the absence exceeds 30 days

If a family member ceases to live in the unit through divorce, separation, hospitalization, incarceration, or any other circumstance(s), the family must notify BHA in writing within 10 business days. See Chapter 7 for more information on “Separation or Divorce.”

If a live-in aide, foster child, or foster adult ceases to reside in the unit as his/her sole residence, the family must inform BHA within 10 business days.

### **Removal of Spouse from Household**

There is a presumed, legal obligation for a legal spouse to provide financially for his/her spouse. When responding to a request to **permanently** remove a spouse from the household, BHA will require one or more of the following:

- Written statement from the family indicating that the removal is permanent
- Evidence that a divorce application has been submitted or is final
- Copy of a death certificate
- Certified copy of the most recent tax return.

### **Family Breakup**

If a family break-up occurs whereby there are two or more families created from the original household, “successor families,” in which there is at least one adult member, and both families wish to retain Section 8 assistance, in the absence of a judicial decision, or an agreement among the original family members, BHA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors:

- (1) interest of any minor children, including custody arrangements,
- (2) the interest of any ill, elderly, or disabled family members,
- (3) any possible risks to family members as a result of domestic violence or criminal activity, and
- (4) the recommendations of social service professionals.

BHA will terminate the assistance of the voucher holder who has moved from the assisted unit, and issue the selected successor family a new Housing Choice Voucher. BHA will consider any mitigating factors that may have caused the individual to move from the unit (such as actual or threatened domestic violence). The recertified successor family may use the new Voucher for any appropriately-sized approvable Section 8 unit including the family’s current unit, provided it is approvable.

If BHA, in its sole discretion, determines that the facts of the family breakup are such that the priorities listed above cannot be successfully applied to help determine how to equitably allocate the assistance, BHA will either require supporting documentation from outside agencies familiar with the family's situation (social worker, mental health professional, case manager, medical care provider, police department, women's shelter staff, etc.), or use its best judgment to allocate the assistance equitably.

### **11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because BHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, BHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

#### **BHA-Initiated Interim Reexaminations**

BHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by BHA. They are not scheduled because of changes reported by the family.

##### BHA Policy

BHA may conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), BHA may conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, BHA may conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), BHA may schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, BHA may conduct an interim reexamination.

If at the time of the last annual or interim reexamination, the family rent portion was \$0 and/or the family was receiving a utility reimbursement, BHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

#### **Family-Initiated Interim Reexaminations**

BHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

### **Alternate “year” employees**

For households with income that varies during the year in accordance with the industry standard (i.e. school yard supervisors; sports concession operators), BHA will look at a 2-3 year history to project income for the upcoming 12 month period.

BHA will factor in the variations in income during the year when annualizing income, and will not process an interim reexamination during “non-work” periods unless the individual resigns from the position, or receives notice that he/she has been terminated.

### ***Required Reporting***

HUD regulations give BHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### BHA Policy

Families are ~~not~~ required to report permanent changes in income within 14 days of the change.

BHA will only conduct interim reexaminations for families:

- a. that qualify for the earned income disallowance (EID), and only when the EID family’s share of rent will change as a result of the increase;
- b. Where a family member who previously reported having no income, begins receiving benefits or income greater than \$400 per month
- c. Where the family was paying \$0 for rent and/or receiving a utility reimbursement payment.
- d. The family is a participant in the Family Self Sufficiency Program.

In all other cases, BHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

BHA may delay an interim up to 10 business days to allow time for the family to apply for and/or receive notice of eligibility for Unemployment Insurance Benefits.

### ***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. BHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family’s share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

### BHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, BHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, BHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses at any time.

## **11-II.D. PROCESSING THE INTERIM REEXAMINATION**

### **Method of Reporting**

#### BHA Policy

The family must notify BHA of changes in writing except as a reasonable accommodation for a person with disabilities.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if BHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, BHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from BHA. This time frame may be extended for good cause with BHA approval. BHA will accept required documentation by mail, by fax, or in person.

### **Effective Dates**

BHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

#### BHA Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## **PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

### **11-III.A. OVERVIEW**

After gathering and verifying required information for an annual or interim reexamination, BHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in BHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### **Payment Standards [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When BHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If BHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

#### **Subsidy Standards [24 CFR 982.505(c)(4)]**

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in BHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

### **Utility Allowances [24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in BHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, BHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, BHA must use the BHA current utility allowance schedule [24 CFR 982.517(d)(2)].

#### BHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

### **11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

BHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding BHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

#### BHA Policy

The notice to the family will include the former and new contract rent, HAP payment and family rent share. The notice also will state the procedures for requesting an informal hearing. A copy of the worksheet showing how the family rent portion was determined will be attached to the family copy only.

### **11-III.D. DISCREPANCIES**

During an annual or interim reexamination, BHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, BHA may discover errors made by BHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 12.