

## Chapter 11

### REEXAMINATIONS

#### INTRODUCTION

MBHA 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 MBHA 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**

MBHA 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 STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]**

HUD permits MBHA to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years MBHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. MBHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, MBHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

### MBHA Policy

MBHA will continue to obtain third-party verification of all income, regardless of the source.

## 11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

MBHA 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**].

### MBHA Policy

MBHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, MBHA 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 or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, MBHA will perform a new annual reexamination of the families information as part of the unit transfer.

MBHA 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**

MBHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of MBHA. However, PHAs should give tenants who were not provided the opportunity the option to complete **Form HUD-92006** at this time [**Notice PIH 2009-36**].

### MBHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact MBHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact MBHA in advance of the interview to schedule a new appointment. MBHA will allow the family to reschedule appointments for good cause. Generally, no more than one opportunity will be given to reschedule without good cause, and no more than two opportunities for good cause. When a good cause exists, MBHA will work closely with the family to find a more suitable time. Any further rescheduling would require approval of Supervisor or Executive Director.

If a family fails to attend two scheduled interviews without MBHA 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, 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 MBHA must execute a certification attesting to the role and assistance of any such third party.

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

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

##### MBHA 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 Personal Declaration, an Authorization for the Release of Information/Privacy Act Notice, Family Obligations, as well as supporting documents or forms 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 14 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request one extension. No more than two opportunities to provide the information will be given to the family.

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

Additionally, HUD recommends that at annual reexaminations MBHA ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [**Notice PIH 2012-28**].

##### MBHA Policy

At the annual reexamination, MBHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. MBHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If MBHA proposes to terminate assistance based on lifetime sex offender registration information, MBHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [**24 CFR 5.903(f) and 5.905(d)**]. (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 MBHA 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 family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), MBHA must issue the family a new voucher, and the family and MBHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MBHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

#### **11-I.E. 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 the student is not a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to 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 or is considered a *vulnerable youth* in accordance with MBHA 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.

#### MBHA Policy

During the annual reexamination process, MBHA 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 or is considered a *vulnerable youth* 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), MBHA will process a reexamination in accordance with the policies in this chapter.

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

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

#### MBHA 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 of the annual reexamination and the late certification is MBHA caused, 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 MBHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MBHA, but will always allow for the 30-day notice period.

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 first of the following month.

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 MBHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MBHA.

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.

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

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

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

Family circumstances may change between annual reexaminations. HUD and MBHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances MBHA must process interim reexaminations to reflect those changes. HUD regulations also permit MBHA 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. MBHA must complete the interim reexamination within a reasonable time after the family's request.

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

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

The family is required to report all changes in family composition. MBHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, MBHA has limited discretion in this area.

#### MBHA Policy

MBHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations. All changes must be reported in writing within 14 calendar days of the change.

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

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

#### MBHA Policy

The family must inform MBHA of the birth, adoption or court-awarded custody of a child within 14 calendar days.

## **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 MBHA 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, MBHA must make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 CFR 982.516(e)(2)].

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

### MBHA Policy

Families must request MBHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, or 45 cumulative days, within a twelve-month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by MBHA prior to the individual moving in the unit. Minors and other family members may be reviewed on a case-by-case basis.

MBHA will not approve the addition of a new family or household member unless the individual meets MBHA’s eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

MBHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If MBHA determines an individual meets MBHA’s eligibility criteria and documentation requirements, MBHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and may be required to move.

If MBHA determines that an individual does not meet MBHA’s eligibility criteria or documentation requirements, MBHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

MBHA will make its determination within 14 calendar days of receiving all information required to verify the individual’s eligibility.



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

Families must promptly notify MBHA 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**], MBHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

### MBHA Policy

If a household member ceases to reside in the unit, the family must inform MBHA within 14 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform MBHA within 14 calendar days.

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

Interim reexaminations can be scheduled either because MBHA 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, MBHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

### **MBHA-Initiated Interim Reexaminations**

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

#### MBHA Policy

MBHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), MBHA will conduct an interim reexamination at the start and conclusion of the of the 24-month eligibility period.

If the family has reported zero income MBHA will conduct the interviews every three months.

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), MBHA will 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, MBHA will conduct an interim reexamination.

MBHA 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.

If the family is unable to provide the information or materials requested by MBHA within the required time frame, the family may request one extension. No more than two opportunities, without the approval of Supervisor or Executive Director, to provide the information will be given to the family.

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

## **Family-Initiated Interim Reexaminations**

MBHA 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)].

### ***Required Reporting***

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

#### MBHA Policy

Families are required to report all increases in earned income, including new employment, in writing within 14 calendar days of the effective date of the change, not of receipt of payment. The rent will not be adjusted if the increase in income does not decrease the HAP by \$150.00 or more, unless the total tenant payment prior to the increase was minimum rent or less

Families are required to report any other changes in income or expenses in writing within 14 calendar days of the effective date of the change, not of receipt of payment. The rent will not be adjusted if the increase in income does not decrease the HAP by \$150.00 or more unless the total tenant payment prior to the increase was minimum rent or less, excluding families under contract with the Family Self-Sufficiency Program.

Income changes of less than 30 days will not result in a rent adjustment.

If the family fails to report income in the required time period, or fails to provide all required information within the required time frames, even though the change in income or expenses does not decrease the HAP by \$150.00 or more the family will be required to repay the difference in the rent adjustment and may be placed in termination in accordance with the policies in 11 II C and 11 II D and Chapter 12. The increase will be applied retroactively, to the day the income increased.

### ***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)]. MBHA 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.

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

### Method of Reporting

#### MBHA Policy

The family must notify MBHA of changes in writing. If the family provides oral notice that results in a decrease, MBHA will also require the family to submit the changes in writing.

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

Based on the type of change reported, MBHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from MBHA. This time frame may be extended for good cause with MBHA approval. MBHA will accept required documentation by mail, by email, by fax, or in person.

### Effective Dates

MBHA 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].

#### MBHA Policy

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

The increase generally will be effective on the first of the month following a minimum of 20 days' notice to the family. In the event of a repayment agreement, due to the family's failure to report timely, the family and landlord will still receive a 30-day notice of rent adjustment.

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 day the income increased. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

The rent will not be adjusted if the increase in income does not decrease the HAP by \$150.00 or more, excluding families under contract with the Family Self-Sufficiency Program.

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

- If MBHA'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, during the term of a HAP contract, MBHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's second annual reexamination, MBHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases 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 MBHA'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 MBHA'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, MBHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

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

#### MBHA 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**

MBHA 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 MBHA'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).

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

During an annual or interim reexamination, MBHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, MBHA may discover errors made by MBHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.