Chapter 15

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

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

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

A. Allowable Moves

Provided a family's assistance is not being terminated by SHA, a family may move to a new unit with continued assistance when:

1. SHA has terminated the HAP Contract due to a breach by the owner;
2. 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, and SHA has determined that the family is not in violation of its family obligations;
3. The owner is selling the unit, and the owner and the tenant mutually agree to terminate the lease;
4. The family has a right to terminate the lease and has given proper notice of lease termination;
5. An owner and a family mutually agree to terminate a lease to facilitate a move to another unit owned or managed by the same landlord; or
6. An emergency arises which, in the opinion of SHA, necessitates a move by the family whether or not proper notice of lease termination has been given by the family.

B. Restrictions on Moves [24 CFR 982.314, 982.552(a)]

Families may not move with continued assistance during the initial year of assisted occupancy, unless there are circumstances beyond the control of the family which require a move as an accommodation for a family member with a disability or for other good cause.

Families may not move more than once in a 12-month period, unless there are circumstances beyond the control of the family which require a move as an accommodation for a family member with a disability or for other good cause.

Families must be current in their payment agreement prior to the issuance of a voucher to move, except in certain circumstances described in Chapter 19, Owner or Family Debts to SHA. If a family wants to move outside of SHA jurisdiction, they must repay in full the balance of any debt owed SHA

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

Families must repay in full the balance of any debt owed a public utility for a utility payment that is the responsibility of the Family prior to the issuance of a voucher to move.

C. Procedure for Moves [24 CFR 982.314]

Issuance of Voucher

SHA will not recertify the income of families before it issues a voucher to move, unless the family reports a change in income or household circumstances and provides any documentation requested by SHA to confirm the reported change.

The annual recertification or update date will not be changed to coincide with the new lease-up date.

If the family does not locate a new unit, they may remain in the current unit for as long as the owner permits. If the family does not move within 120 days of the date of issuance, the family must restart the issuance process from the beginning.

Notice Requirements

The family must give the owner written notice of intent to vacate as required under the lease or local statute.

The regular Housing Choice Voucher briefing session emphasizes the family's responsibility to give the owner and SHA proper written notice of any intent to move.

Timing of Payments

Housing Assistance Payments stop at the end of the month in which the tenant moves from the unit, unless the lease is lawfully terminated mid-month and proper notice was given to do so.

Housing Assistance Payments will start on the new unit on the later of the effective date of the lease and contract for the new unit or the day following the last day assistance was paid on the prior unit.

Moves to Other Units Owned by Landlord

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 moves may occur midmonth.

D. Portability [24 CFR 982.353]

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

E. Restrictions on Portability

Applicants from Outside the Jurisdiction

A family will be permitted to move out of SHA's jurisdiction upon the initial issuance of their voucher if either the head of household or the spouse had a legal residence in SHA's jurisdiction on the date of their initial application for assistance. If neither the head of household nor the spouse had a legal residence in SHA's jurisdiction at the time of their initial application for assistance, the family must lease a unit in SHA's jurisdiction for at least one year prior to exercising portability. Exceptions may be granted as a reasonable accommodation to a family with a member who has a disability.

The receiving housing authority shall determine whether a family seeking to port-out to another jurisdiction is eligible for admission under the receiving housing authority's program.

Participants in the First Year of Occupancy

A participant that has leased up in the jurisdiction of another housing agency cannot port-in to SHA's program in the first year of assisted occupancy, exceptions may be considered in the following circumstances:

1. The initial lease term is for less than 12 months, and the family gives proper notice to the owner of its intent to vacate;
2. SHA and the initial PHA agree to the move;
3. The family's move is necessitated by an opportunity for education, job training or employment (based on documentation acceptable to SHA);
4. Relocation is needed to provide a reasonable accommodation pursuant to applicable fair housing laws; or
5. There are emergency or other circumstances that necessitate the move (based on documentation acceptable to SHA).

Other Denials of Incoming Portability

SHA will deny incoming portability if:

1. The family has any obligation to SHA or any other housing authority to pay money, and the family has failed to pay the debt off in full;
2. The family moved out of its assisted unit in violation of the lease; or
3. The family's criminal background check fails to meet SHA's standards described in Chapter 2, Section F. of this Plan.

F. 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 SHA's jurisdiction, anywhere in the United States that is in the jurisdiction of a PHA with a tenant-based program. The family

must specify the area to which the family wants to move.

Families must repay in full the balance of any debt owed SHA prior to the issuance of a voucher to move, regardless of whether a payment agreement is current or in arrears, except in certain circumstances described in Chapter 19, Owner or Family Debts to SHA.

Medical Documentation Not Shared Except With Family

In order to comply with the federal privacy act rules regarding health-related information (HIPAA), SHA shall not send a portable family's medical documentation to a receiving PHA. SHA may indicate to the receiving PHA that SHA has approved an accommodation for the family, without providing any of the details of the basis for the approval. SHA shall give a copy of the medical documentation it has on file directly to the family, on request, for them to provide to the receiving PHA to document medical or disability-related accommodations, deductions, or allowances.

G. Incoming Portability [24 CFR 982.355]

Criminal Background Check

SHA will conduct a criminal background history check and will apply the same admissions criteria as identified in Chapter 2 Section F.

Absorption or Administration

SHA will accept a family with a valid voucher from another jurisdiction and either administer or absorb the voucher, at its option.

If SHA administers the voucher, the family will be issued a "portable" voucher by SHA. The term of the portable voucher will not expire before the expiration date of the voucher issued by the initial PHA. The family must submit to SHA a Request for Tenancy Approval for an eligible unit during the term of the voucher. SHA may approve extensions requested by the initial PHA if such extensions are consistent with this Administrative Plan. However, if the family decides not to lease-up in SHA's jurisdiction, they must contact the initial PHA to request an extension. SHA and another PHA may mutually agree to cross-absorb portable vouchers for each other's PHA.

Income Eligibility

A family that ports-in to SHA's program and leases a unit for the first time under the Housing Choice Voucher Program must be income eligible under SHA's program.

If a family was already receiving assistance in the initial PHA tenant-based Housing Choice Voucher Program, SHA will not redetermine income eligibility.

Subsidy Standards

SHA will issue a "portability voucher" based on the SHA's subsidy standards.

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

SHA will conduct a recertification to verify household information when documents are missing, are more than 60 days old, or when there has been a change in the family's circumstances. Otherwise, SHA will not re-verify the income information provided.

If SHA conducts a family recertification, SHA will seek to avoid causing a delay in the issuance of a voucher.

Requests for Approval of Tenancy

A briefing from SHA staff is mandatory for all incoming portability families.

When the family submits a *Request for Tenancy Approval*, it will be processed using SHA's policies. If the family does not submit a *Request for Tenancy Approval* or does not execute a lease, SHA will notify the initial PHA within 180 days from the date of voucher issuance by SHA that no Request for Tenancy Approval has been submitted by the family.

SHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside SHA's jurisdiction under continued portability.

Regular Program Functions

SHA will perform all program functions applicable to the tenant-based assistance program, including:

1. Annual or triennial re-examinations and recertifications of family income and composition;
2. Annual inspection of the unit;
3. Interim examinations when requested by the tenant or as deemed necessary by SHA; and
4. Other regular program functions.

SHA's policies and procedures related to annual and ongoing functions will govern the administration of vouchers for families who have leased units under portability procedures.

Terminations

SHA will notify the initial PHA in writing of any termination of assistance within 10 business days of the termination. If the family requests an informal hearing, the hearing shall be conducted by SHA, using the hearing procedures included in this Plan. SHA will not notify the initial housing authority of the termination until the informal hearing process is complete. A copy of the hearing decision shall be furnished to the initial PHA.

The initial PHA is responsible for collecting any amounts owed by the family to the initial PHA, and for monitoring repayment. If the initial PHA notifies SHA that the family is in arrears or the family has refused, without good cause, to sign a payment agreement, SHA shall terminate assistance to the family.

Required Documents

As receiving PHA, SHA will require from the initial PHA the documents identified in HUD Regulations and/or listed on the HUD Portability Billing form.

Billing Procedures

If the family leases up successfully, SHA will notify the initial PHA within 180 days from the date of voucher issuance, and the billing process will commence.

As receiving PHA, SHA shall bill the initial PHA monthly for Housing Assistance Payments. The billing cycle for other amounts will also be monthly, including administrative fees and special claims, unless requested otherwise by the initial PHA.

SHA will bill 100 percent of the Housing Assistance Payment, 100 percent of special claims and 80 percent of the administrative fee (at the initial PHA's rate) for each “portability” voucher leased as of the first day of the month.

SHA will notify the initial PHA of changes in subsidy amounts and will rely upon the initial PHA to notify SHA of changes in the administrative fee amount to be billed.