

## Chapter 11

### REEXAMINATIONS

[24 CFR 5.613, 24 CFR 5.61524 CFR Part 960 Subpart C]

#### **INTRODUCTION**

HUD requires that RCRHA offers all families the choice of paying income-based rent or flat rent at least annually. Families who choose to pay flat rent are required to complete a reexamination of income, deductions and allowances at least once every three years. Flat rent families must still report family composition and community service requirements on an annual basis. To determine the amount of income-based rent, it is necessary for RCRHA to perform a reexamination of the family's income annually. At the annual reexamination, families who choose to pay income-based rent must report their current household composition, income, deductions and allowances. Between regular annual reexaminations, HUD requires that families report all changes in household composition, but RCRHA decides what other changes must be reported and the procedures for reporting them. This chapter defines RCRHA's policy for conducting annual reexaminations. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### **A. ELIGIBILITY FOR CONTINUED OCCUPANCY**

Residents who meet the following criteria will be eligible for continued occupancy:

1. Qualify as a family as defined in this policy.
2. Are in full compliance with the resident obligations and responsibilities as described in the dwelling lease.
3. Have provided Social Security numbers on all family members or have certifications on file indicating they have no Social Security Number.
4. Who meet HUD standards on citizenship or immigration status or are paying a pro-rated rent <sup>1</sup>.
5. Who are in compliance with the RCRHA's community service requirements.

**Remaining Family Members and Prior Debt**

1. Remaining family members age 18 years or older will be held responsible for arrearages incurred by the former head or spouse. RCRHA will not hold remaining family members (other than the head or spouse) responsible for any portion of the arrearage incurred before the remaining member attained age 18.
2. Remaining family members under age 18 shall not be held responsible for the rent arrearages incurred by the former head of household.

**B. ANNUAL REEXAMINATION**

1. Regular reexaminations: RCRHA shall, at least once a year, re-examine the family composition, incomes, and community service requirements of all resident families, except for families that are paying flat rent and elect to pay flat rent. Flat rent families shall have their incomes reexamined every three years <sup>2</sup>. Flat rent families will have the family composition and community service requirements reexamined annually. **All RCRHA annual recertifications are processed to be in compliance with a twelve-month effective period.**
2. Special Reexaminations: When it is not possible to estimate family income accurately, a temporary determination will be made with respect to income and a special reexamination will be scheduled every 90 days until a reasonably accurate estimate of income can be made.
3. Special reexaminations shall be conducted when there is a change in the head of household that requires a remaining family member to take on the responsibilities of a leaseholder.
4. Special Reexamination Following Income Disallowance: When a family qualifies for an earned income disallowance, a special reexamination will occur at the end of the initial 12 month disallowance period and at the end of the phase-in period.
5. Zero/Extremely Low Income Families: Unless the family has income that is excluded from rent computation, families reporting zero/extremely low income will have their circumstances examined every 90 days until they have a stable income. Monetary or non-monetary contributions from persons not residing in the dwelling unit for any purpose other than the payment or reimbursement of medical expenses shall be considered income.

6. Reexamination Procedures

- (a) At the time of reexamination, all adult members of the household will be required to sign an application for continued occupancy and other forms required by HUD.
- (b) Income, allowances, Social Security Numbers, and such other data as is deemed necessary will be verified, and all documentation will be filed in the resident's folder.
- (c) A EIV report will be requested on each family at recertification to help detect unreported income, provide third-party verification, identify family members not reported on the lease, etc. <sup>3</sup>.
- (d) Verified information will be analyzed and a determination made with respect to:
  - (i) Eligibility of the resident as a family or as the remaining member of a family;
  - (ii) Unit size required for the family (using the Occupancy Guidelines);
  - (iii) Rent the family should pay; and
  - (iv) Community Service requirements.
- (e) Residents with a history of employment whose reexamination occurs when they are not employed will have income anticipated based on past and anticipated employment. Residents with seasonal or part-time employment of a cyclical nature will be asked for third party documentation of their employment including start and ending dates.
- (f) Income shall be computed in accordance with the definitions and procedures set forth in Federal regulations and this policy <sup>4</sup>.
- (g) Families failing to respond to the initial reexamination appointment will be issued a final appointment within the same month. Failure to respond to the final request will result in the family being sent a notice of lease violation and for termination of the lease <sup>5</sup>.

7. Action Following Reexamination

- (a) If there is any change in rent, the lease will be amended, a new lease will be executed, or a Notice of Rent Adjustment will be issued <sup>6</sup>.
  
- (b) If any change in the unit size is required, the resident will be placed on a transfer list in accordance with the transfer criteria described within the policy and moved to an appropriate unit when one becomes available <sup>7</sup>.

The terms annual recertification and annual reexamination are synonymous.

For families who move in on the first of the month, the annual recertifications will be completed within 12 months of the anniversary of the move-in date. (Example: If family moves in August 1, the annual recertification will be conducted to be effective on August 1, the following year.)

For families who move in during the month, the annual recertifications will be completed no later than the first of the month in which the family moved in, the following year. (Example: If family moves in August 15, the effective date of the next annual recertification is August 1.)

When families move to another dwelling unit:

The annual recertification date will not change.

**Reexamination Notice to the Family**

All families will be notified of their obligation to recertify by hand delivery of the notice. The notification shall be sent at least 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, RCRHA will provide the notice in an accessible format. RCRHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they met the need presented by the disability.

The notification shall explain family choice of income-based or flat rent.

The family will indicate whether the family chooses income-based or flat rent by checking the appropriate box on the document, signing the document, and returning the document to the family's site office.

If the family chooses flat rent, an annual recertification is still required to verify community service requirements and family composition. Recertification of income is only required every three years.

**Methodology**

If the family chooses income-based rent, or if the family has paid the flat rent for three (3) years, RCRHA will use the following methodology for conducting annual recertifications:

- Schedule a specific date and time of appointments in the written notification to the family.
- Include information on the required documents that the tenant will need to supply.

**Persons with Disabilities**

Persons with disabilities, who are unable to come to the site office will be granted an accommodation of conducting the interview at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

**Collection of Information**

The RCRHA representative will interview the family and enter the information provided by the family on the recertification form.

The family is required to complete a Personal Declaration form prior to all annual and interim recertification interviews.

**Requirements to Attend**

The following family members will be required to attend the recertification interview and sign the application for continued occupancy:

- The head of household and spouse, and
- All adult household members, age 18 and older.

If the head of household is unable to attend the interview:

- The spouse may recertify for the family, provided that the head of household comes in within 5 days to recertify.

**Failure to Respond to Notification to Recertify**

The written notification will explain which family members are required to attend the recertification interview. The family may call to request another appointment date up to 10 days prior to the interview.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with RCRHA, RCRHA will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, RCRHA will:

Terminate tenancy for the family.

Exceptions to these policies may be made by the Executive Director if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.

**Documents Required From the Family**

In the notification letter to the family, RCRHA will include instructions for the family to bring the following:

- Documentation of income for all family members
- Documentation of assets
- Documentation to substantiate any deductions or allowances
- Documentation of family composition
- Personal Declaration Form completed by head of household
- Documentation of community service requirements
- Other required documents on new family members, such as SSN or citizenship requirements

**Verification of Information**

All information that affects the family's continued eligibility for the program, and the family's Total Tenant Payment (TTP) will be verified in accordance with the verification procedures and guidelines described in this Policy.

When the information has been verified, it will be analyzed to determine:

- the continued eligibility of the resident as a family or as the remaining member of a family;
- the unit size required by the family;
- the amount of rent the family should pay.

**Changes In The Tenant Rent**

Residents will be notified in writing of any rent adjustment including the effective date of the adjustment.

1. Rent decreases go into effect on the anniversary date and upon receipt of all verification.
2. Rent increases (except those due to misrepresentation) require 30 days notice and become effective the first of the second month.

If there is any change in rent, including change in family's choice in rent, the lease will be amended, or a new lease will be executed, or a Notice of Rent Adjustment will be issued [24 CFR 966.4(c)].

### **Tenant Rent Increases**

If tenant rent changes, a thirty-day notice will be mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the second month following the thirty-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date.

### **Tenant Rent Decreases**

Rent decreases go into effect the first of the month following receipt of all verification.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by RCRHA.

## **C. NOTICE of CHANGES and REPORTING INTERIM CHANGES**

Families must report all changes in household composition to RCRHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain RCRHA approval prior to all other additions to the household.

When there is a change in head of household or a new adult family member is added, RCRHA will complete an application for continued occupancy and reverify, using the same procedures RCRHA staff would use for an annual reexamination, except for effective dates of changes. In such case, the Interim Reexamination Policy would be used.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified prior to the approval by the PHA of the family member being added to the lease.

**Increases in Income to be Reported**

Families paying flat rent are required to report any increases in income or assets between the recertification periods, but the change in income will not increase the rent.

Families paying an income-based rent are required to report increases in income/assets of household members to RCRHA between annual recertifications.

Families are required to report the following increases in income:

- Increases in income because a person with income joins the household;
- Increases in household income that come as a result of a new income source.
- Increases in household income that was not anticipated at the annual recertification period.

**Increases In Income and Rent Adjustments**

RCRHA will process rent adjustments for required income adjustment, which are reported between regularly scheduled recertifications.

Rent increases (except those due to misrepresentation) require 30 days notice.

**Decreases in Income and Rent Adjustments**

Residents may report a decrease in income and other changes, such as an increase in allowances or deductions which would reduce the amount of the total tenant payment.

Rent decreases go into effect the first of the month following receipt of all verification.

RCRHA will process the rent adjustment unless RCRHA confirms that the decrease in income will last less than 30 calendar days.

**Special Reexaminations**

If a family's income is unstable and cannot be projected for twelve months, including families that temporarily have no income or a temporary decrease in income, the RCRHA may schedule a special reexamination every 30 days until the income stabilizes and an annual income can be determined.

**D. OTHER INTERIM REPORTING ISSUES**

Residents are required to report **all changes in family composition or status** to RCRHA within 10 calendar days of the occurrence. Failure to report within the 10 calendar days may result in a retroactive rent increase, but not a retroactive credit or rent reduction. In order to qualify for rent reductions, residents must report and verify income decreases promptly.

An interim reexamination will be scheduled for families with zero or extremely low-income every 90 days.

RCRHA will process interim adjustments in rent as follows:

1. When a decrease in income is reported, and the Authority receives confirmation that the decrease will last less than 30 days, an interim adjustment will not be processed.
2. Residents reporting decreases in income that are expected to last more than 30 days will have an interim adjustment processed.

**PHA Errors**

If RCRHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

**E. REPORTING OF CHANGES IN FAMILY COMPOSITION**

The members of the family residing in the unit must be approved by RCRHA. The family must inform RCRHA and request approval of additional family members other than additions due to birth, adoption, marriage, court-awarded custody before the new member occupies the unit.

All changes in family composition must be reported within 10 working days of the occurrence in writing.

If an adult family member is declared permanently absent by the head of household, the notice must contain a certification by the head of household that the member (who may be the head of household) removed is permanently absent.

**Increase in Family Size**

RCRHA will consider a unit transfer (if needed under the Occupancy Guidelines) for additions to the family in the following cases:

- Addition by marriage/or marital-type relation.
- Addition of a minor who is a member of the nuclear family who had been living elsewhere.

- Addition of a PHA-approved live-in attendant.
  
- Addition due to birth, adoption or court-awarded custody.

**Definition of Temporarily/Permanently Absent**

RCRHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. RCRHA will evaluate absences from the unit in accordance with this policy.

**Absence of Entire Family**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, RCRHA will terminate tenancy in accordance with the appropriate lease termination procedures contained in this Policy.

Families are required to notify RCRHA before they move out of a unit in accordance with the lease and to give RCRHA information about any family absence from the unit.

Families must notify RCRHA if they are going to be absent from the unit for more than fifteen consecutive days. A person with a disability may request an extension of time as a reasonable accommodation.

"Absence" means that no family member is residing in the unit.

**Absence of Any Member**

Any member of the household will be considered permanently absent if s/he is away from the unit for 30 consecutive days in a 12 month period except as otherwise provided in this Chapter.

**Absence due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, RCRHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent and removed from the lease. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remains current.

**Absence due to Incarceration**

If the sole member is incarcerated for more than 30 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 30 consecutive days. The rent and other charges must remain current during this period.

RCRHA will determine if the reason for incarceration is for drug-related or criminal activity that would threaten the health, safety and right to peaceful enjoyment of the dwelling unit by other residents. If the offense is drug related or criminal activity that violates the lease and policy, the lease will be terminated.

**Foster Care and Absences of Children**

If the family includes a child or children temporarily absent from the home due to placement in foster care, RCRHA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 180 days from the date of removal of the child(ren), the family will be required to move to a smaller size unit. If all children are removed from the home permanently, the unit size will be reduced in accordance with the PHA's occupancy guidelines.

**Absence of Adult**

If neither parent remains in the household and the RCRHA and appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, RCRHA will treat that adult as a visitor for the first 30 calendar days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the guardian, and the guardian qualifies under Tenant Suitability criteria, the lease will be transferred to the guardian.

If the court has not awarded custody or legal guardianship, but the action is in process, RCRHA will secure verification from social services staff or the attorney as to the status.

The guardian will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

RCRHA will transfer the lease to the guardian, in the absence of a court order, if the guardian qualifies under the Tenant Suitability criteria and has been in the unit for more than 30 days and it is reasonable to expect that custody will be granted.

When the RCRHA approves a person to reside in the unit as guardian for the child(ren), the income of the guardian should be counted pending a final disposition. RCRHA will work with the appropriate service agencies to provide a smooth transition in these cases.

If an adult child goes into the military and vacates the unit, they will be considered permanently absent.

Full time students who attend school away from the home will be treated in the following manner:

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses is considered temporarily absent and the income is included for rent purposes. If the person will not return to the unit, that member is permanently absent and the income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of unit size.

**Visitors (See Chapter on Leasing)**

Absence of evidence of any other address will be considered verification that the visitor is an unauthorized household member.

Statements from neighbors and/or RCRHA staff will be considered in making the determination.

RCRHA will consider:

- Statements from neighbors and/or RCRHA staff
- Vehicle license plate verification
- Post Office records
- Drivers license verification
- Law enforcement reports
- Credit reports
- Other reliable documentation

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and RCRHA will terminate the family's lease since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to 45 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member. **The family will not receive a \$480 dependent deduction for this minor.**

If both parents reside in Public Housing, only one parent would be able to claim the child for deductions and for determination for the occupancy standards.

#### **F. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF UNIT**

To be considered the remaining member of the tenant family, the person must have been previously approved by RCRHA to be living in the unit. In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor or is legally married; or
- RCRHA has verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a transfer to an appropriate unit size per the Occupancy Standards.

#### **G. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES**

Under the Noncitizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members. Mixed families are eligible for prorated assistance in accordance with the mixed-family portion of the policy.

<sup>1</sup> 24 CFR § 5.5

<sup>2</sup> 24 CFR § 960.257

<sup>3</sup> 24 CFR § 960.259(c)

<sup>4</sup> 24 CFR § 5

<sup>5</sup> 24 CFR § 966.4 (c)(2)

<sup>6</sup> 24 CFR § 966.4 (c) & (o)

<sup>7</sup> 24 CFR § 966.4 (c)(3)