

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

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

INTRODUCTION

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

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because the PHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.

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 (unless assistance to the family will be terminated).

The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will not be permitted to move within the PHA's jurisdiction during the initial year of assisted occupancy.

A non-resident applicant family from another PHA that does not have legal residence in the jurisdiction of the PHA at which they are applying for assistance, does NOT have the right to use their voucher at MSHDA for the first twelve months they receive voucher assistance {CFR 982.353 © (3)}.

Families will not be permitted to move outside the PHA's jurisdiction under portability procedures during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a 12-month period.

The Regional Manager may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

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

The PHA **will** deny permission to move if:

The family has violated a family obligation.

The family owes the PHA money and has not signed a Repayment Agreement or is not current on a previously signed agreement.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves, if the family has not been recertified within the last **120** days, the PHA will issue the voucher to move. **A recertification will be conducted when the family locates a qualified unit.**

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

Notice Requirements

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the PHA simultaneously.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease midmonth. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

D. PORTABILITY [24 CFR 982.353]

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

E. 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 the PHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of the PHA's jurisdiction, the request must specify the area to which the family wants to move.

Refer to Chapter XVIII regarding Portability in the Policy/Procedure Manual.

Restrictions on Portability

Applicants

If neither the head or spouse had a domicile (legal residence) in the PHA's jurisdiction at the date of their initial application for assistance, the family **will not** be permitted to exercise portability upon initial issuance of a voucher, unless the PHA approves such move. [NOTE: legal domicile is defined by local government.]

For a portable family that was not already receiving assistance in the PHA's based program, the PHA must determine whether the family is eligible for admission under the receiving PHA's program.

Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances.

The receiving and initial PHA agree to allow the move.

The PHA will allow families to exercise portability:

If the receiving PHA is absorbing the incoming portability family.

If the receiving PHA plans to administer the voucher and the family has met one of the following: obtained verifiable employment in the new jurisdiction; or, the move will provide a reasonable accommodation for a disabled family.

The PHA will not permit families to exercise portability:

If the family does not meet eligibility criteria (criminal screening)

If the family is in violation of a family obligation.

If the family owes money to the PHA.

If the family has moved out of its assisted unit in violation of the lease.

If the family has an enhanced voucher and the enhanced voucher family has not lived in Michigan for the twelve months preceding the conversion action.

Receiving PHA's will be required to submit hearing determinations to the PHA within **30 calendar days of receipt of hearing decision.**

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The PHA will accept a family with a valid voucher from another jurisdiction and administer the voucher . The PHA will not absorb any vouchers.

If administering, the family will be issued a "portable" voucher by the PHA. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for approval of tenancy for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the PHA's jurisdiction, they must contact the initial PHA to request an extension.

Incoming portable families whose vouchers are being administered, will not be absorbed as long as there are eligible applicants on the waiting list.

When the PHA does not absorb the incoming voucher, it will administer the initial PHA's voucher and the receiving PHA's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program.

The PHA will issue a "portability voucher" according to its own Subsidy Standards. If the family has a change in family composition which would change the voucher size, the PHA will change to the proper size based on its own Subsidy Standards.

Refer to Chapter XVIII on Portability in the Policy/Procedure Manual.

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

As receiving PHA, the PHA will conduct a recertification interview but only verify the information provided if the documents are missing or are over 120 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the PHA conducts a recertification of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the PHA's jurisdiction, the PHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Tenancy Approval

A Mover's Information packet (MSHDA 139) will be provided for all incoming portables.

When the family submits a **Rental Unit Information form (MSHDA 51b)**, it will be processed using the PHA's policies. If the family does not submit a **Rental Unit Information** or does not execute a lease, the initial PHA will be notified within **60** days by the PHA.

If the family leases up successfully, the PHA will notify the initial PHA within **60** days, and the billing process will commence.

The PHA will notify the initial PHA if the family fails to submit a request for approval of tenancy for an eligible unit within the term of the voucher.

If the PHA denies assistance to the family, the PHA will notify the initial PHA within **60** days and the family will be offered a review or hearing.

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

Regular Program Functions

The PHA will perform all program functions applicable for the tenant-based assistance program, such as:

Annual reexaminations of family income and composition;

Annual inspection of the unit; and

Interim examinations when requested or deemed necessary by the PHA

Terminations

The PHA will notify the initial PHA in writing of any termination of assistance within **60** days of the termination. If an informal hearing is required and requested by the family, the hearing will

be conducted by the PHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial PHA notifies the PHA that the family is in arrears or the family has refused to sign a payment agreement, the PHA will terminate assistance to the family.

Required Documents

As receiving PHA, the PHA will require the documents listed on the HUD Portability Billing Form from the initial PHA.

Billing Procedures

As receiving PHA, the PHA will bill the initial PHA **every 60 days** for housing assistance payments. The billing cycle for other amounts, including administrative fees and special claims will be **every 60 days** unless requested otherwise by the initial PHA.

The PHA will bill 100% of the housing assistance payment, 100% of special claims and 80% of the administrative fee (at the initial PHA's rate) for each "portability" voucher leased as of the first day of the month.

The PHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify the PHA of changes in the administrative fee amount to be billed.