

Chapter 11

REEXAMINATIONS

INTRODUCTION

The HACEP 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 HACEP 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

The HACEP 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

The HACEP 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].

HACEP Policy

The HACEP will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the HACEP 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, the HACEP will perform a new annual reexamination and the next annual reexamination will be changed to coincide with the new anniversary date.

The HACEP 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

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

HACEP Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, cohead and all family members 18 and older. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HACEP to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be mailed at least 10 days before the appointment 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 the HACEP in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the HACEP will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACEP 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 the HACEP 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 the HACEP regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

HACEP 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 HACEP-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.

Household members 18 and older will be required every even year reexamination to complete a criminal background as part of continued eligibility (see chapter 3).

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 15 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 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 family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the HACEP must issue the family a new voucher, and the family and HACEP must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HACEP 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 HACEP 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.

HACEP Policy

During the annual reexamination process, the HACEP 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), the HACEP will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

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

HACEP 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 HACEP 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 the HACEP, 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 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 HACEP 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 the HACEP.

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 the HACEP by the date specified, and this delay prevents the HACEP 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 HACEP policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the HACEP must process interim reexaminations to reflect those changes. HUD regulations also permit the HACEP 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. The HACEP must complete the interim reexamination within a reasonable time after the family's request.

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

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

The HACEP 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, the HACEP has limited discretion in this area.

HACEP Policy

The HACEP 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 HACEP approval. However, the family is required to promptly notify the HACEP of the addition [24 CFR 982.551(h)(2)].

HACEP Policy

The family must inform the HACEP of the birth, adoption, or court-awarded custody of a child within 10 business 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 HACEP 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, the HACEP 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), the HACEP must issue the family a new voucher, and the family and HACEP must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HACEP must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

HACEP Policy

Families must request HACEP 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 90 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the HACEP prior to the individual moving into the unit.

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

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

If the HACEP determines an individual meets the HACEP's eligibility criteria and documentation requirements, the HACEP 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 a voucher and will be required to move.

If the HACEP determines that an individual does not meet the HACEP's eligibility criteria or documentation requirements, the HACEP 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.

The HACEP will make its determination within 30 days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

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

HACEP Policy

If a household member ceases to reside in the unit, the family must inform the HACEP within 10 business 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 the HACEP within 10 business days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

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

HACEP-Initiated Interim Reexaminations

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

HACEP Policy

The HACEP will conduct interim reexaminations in each of the following instances:

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

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), the HACEP 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, the HACEP will conduct an interim reexamination.

The HACEP 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

The HACEP 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 the HACEP the freedom to determine the circumstances under which families will be required to report changes affecting income.

HACEP Policy

Families are required to report all changes in income which includes but not limited to increases in earned income, including employment, unemployment, social security, SSI, Pensions/retirement, workmen's compensation, self employment, public assistance, child support, alimony/maintenance, disability payment, veteran's benefits, rental property income, TANF, family contributions, gift contributions and assets, within 10 business days of the date the change takes effect.

The HACEP will only conduct interim reexaminations for families 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. In all other cases, the HACEP will note the information in the tenant file, but will not conduct an interim reexamination.

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)]. The HACEP 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.

HACEP Policy

Families must report all changes in income or expenses including any settlement or judgments within 10 days of the change.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

HACEP Policy

The family must notify the HACEP of changes in writing. If the family provides oral notice, the HACEP will 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 the HACEP determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the HACEP 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 the HACEP. This time frame may be extended for good cause with HACEP approval. The HACEP will accept required documentation by mail, by fax, or in person.

Effective Dates

The HACEP 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].

HACEP Policy

All family initiated rent change documents must be received in our office on or before the 21st of the month to be processed for the first day of the month following the month in which the change was reported. If not it will not be processed until the following month and if the rent decreased no rent portion will be retroactive.

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 if the family report the changes by the 21st of the month. In cases where the change cannot be verified until after the date the change would have become effective, and the change was received timely 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, the HACEP 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 the HACEP'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 the HACEP changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the HACEP'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 funding is available and 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 funding is insufficient for the HACEP to delay applying the new payment standard until the *second annual* reexamination the decreased payment standard will be applied at the first 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 the HACEP'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 the HACEP'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, the HACEP must use the utility allowances in effect at the time the new lease and HAP contract are executed.

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

HACEP 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

The HACEP 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 the HACEP'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, the HACEP may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information, HACEP policies will be followed in accordance with the policies in Chapter 12.

In addition, the HACEP may discover errors made by the HACEP. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

