

Chapter 11

REEXAMINATIONS

INTRODUCTION

The LHA 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 LHA 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 LHA 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 LHAs 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 the LHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The LHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the LHA 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.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the LHA may streamline the verification of fixed income and may choose whether to verify non-fixed income amounts in years where no fixed-income review is required. If the family receives less than 90 percent of its income from fixed sources, the LHA may streamline the verification of fixed income and must verify non-fixed income annually.

LHA Policy

The LHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The LHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the LHA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the LHA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The LHA 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].

LHA Policy

The LHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the LHA 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 LHA will perform a new annual reexamination.

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

LHA Policy

LHA conducts annual reexaminations by first-class mail.

Notification of annual reexamination packets will be sent by first-class mail and will contain the date the completed annual reexamination paperwork is due to LHA. In addition, it will inform the family of the information and documentation that must be submitted with the completed packet.

If a family fails to submit a completed packet in the required time or is returned by the post office with no forwarding address, a notice of Proposed 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.

If the family fails to respond to the Proposed Termination, the family will be sent notice of termination of assistance and will be afforded an Informal Hearing.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the LHA must execute a certification attesting to the role and the assistance provided by any such third party.

The Housing Manager may make exceptions to these policies if the family is able to document an emergency situation that prevented them from responding to the notification to recertify or if requested as a reasonable accommodation for a person with a disability.

11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

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

LHA 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 LHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, 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 10 business 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 period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations LHAs 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].

LHA Policy

At the annual reexamination, the LHA 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. The LHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the LHA proposes to terminate assistance based on lifetime sex offender registration information, the LHA 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 the LHA 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 LHA must issue the family a new voucher, and the family and LHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the LHA 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 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 or is considered a *vulnerable youth* in accordance with LHA 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.

LHA Policy

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

11-I.F. EFFECTIVE DATES

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

LHA 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 LHA 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 LHA, 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 LHA 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 LHA.

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

This part includes HUD and LHA policies describing what changes families are required to report, what changes families may choose to report, and how the LHA will process both LHA- 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. The LHA 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, the LHA has limited discretion in this area.

LHA Policy

The LHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring LHA Approval

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

LHA Policy

The family must inform the LHA 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 LHA 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 LHA 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), the LHA must issue the family a new voucher, and the family and LHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the LHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

LHA Policy

Families must request LHA 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 30 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 LHA prior to the individual moving into the unit.

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

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

If the LHA determines an individual meets the LHA's eligibility criteria and documentation requirements, the LHA 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 LHA determines that an individual does not meet the LHA's eligibility criteria or documentation requirements, the LHA 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 LHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

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

LHA Policy

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

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

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

LHA-Initiated Interim Reexaminations

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

LHA Policy

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

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

If the family has reported zero income, the LHA will conduct an interim reexamination every 6 months as long as the family continues to report that they have no income.

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 LHA 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 declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the LHA will conduct an interim reexamination.

The LHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination. Families will be given decreases, when applicable; retroactive to when the decrease for the change would have been effective if calculated correctly.

The LHA may conduct an interim reexamination to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

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

LHA Policy

Families are required to report all increases in earned income, including new employment or additional household income, within 10 business days of the date the change takes effect.

The LHA will 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. The LHA will also conduct interim reexaminations when households are requesting to add an additional incoming earning member to the household. In all other cases, the LHA 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 LHA 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.

LHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the LHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the LHA will conduct an interim reexamination. See Section 11-II.D for effective dates. Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

LHA Policy

The family may notify the LHA of changes either orally or in writing. If the family provides oral notice, the LHA may 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 the LHA determines that an interview is warranted, the family may be required to attend.

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

Effective Dates

The LHA 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].

LHA Policy

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

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

At reexamination, the LHA must use the LHA current utility allowance schedule [HCV GB, p. 18-8].

LHA 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 LHA 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 LHA'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).

LHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

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