



Port Huron **HOUSING** Commission

905 Seventh Street - Port Huron, Michigan 48060

Phone: (810) 984-3173 - Fax: (810) 984-6430

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM INFORMAL REVIEW/HEARING POLICY

APPEALS PROCESS - COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS and CONSIDERATION OF CIRCUMSTANCES

Upon the receipt of a request by an applicant or program participant to exercise their right to the grievance process, it shall suspend any adverse action until the final outcome has been determined. Should a final determination result in the follow through of an adverse action, the adverse action is effective as of the date of the final determination. Further, if the date of the final determination is made mid-month for a program participant, the Landlord is entitled to receive the HAP on behalf of the tenant through the end of the month in which the determination is made.

COMPLAINTS

The PHHC will investigate and respond to complaints by participant families, owners, and the general public. The PHHC may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

INFORMAL REVIEW FOR THE APPLICANT (24 CFR 982.554)

A. Notice to the Applicant

The PHHC will give an applicant for participation in the Section 8-HCV Program prompt notice of a decision denying assistance to the applicant. The notice will:

- a. Contain a brief statement of the reasons for the decision;
and
- b. State that if the family does not agree with the decision, the family may request an informal review; and
- c. State that upon submission of request, the family may present written or oral objections to the PHHC decision to deny assistance prior to the informal review.
- d. State that the request for the informal hearing must be received within fourteen (14) calendar days of the date of notification.

B. Informal Review Process



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The PHHC will give an applicant an opportunity or an informal review of the PHHC decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by the PHHC other than the person who made or approved the decision under review or a subordinate of this person.
2. The applicant will be given an opportunity to present written or oral objections to the PHHC decision.
3. The PHHC will notify the applicant of the PHHC's decision after the informal review within fourteen (14) calendar days of receiving the applicants request for an informal review or of receiving all information requested from the applicant to assist the PHHC in making a decision in the review process, if any, whichever comes later. The notification will include a brief statement of the reasons for the final decision.

Should the PHHC require an extension of the fourteen (14) calendar days to make a final decision, the PHHC will notify the applicant in writing prior to the end of the fourteen (14) calendar days with a statement of the reasons for the extension and a statement of the approximate date the final decision will be made.

C. When an Informal Review is not required

The PHHC will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. Discretionary administrative determinations by the PHHC.
2. General policy issues or class grievances.
3. A determination of the family unit size under the PHHC subsidy standards.
4. A PHHC determination not to approve an extension or suspension of a certificate or Housing Choice Voucher term.
5. A PHHC determination not to grant approval to lease a unit under the program or to approve a proposed lease.
6. A PHHC determination that a unit selected by an applicant is not in compliance with HQS.
7. A PHHC determination that the unit is not in accordance with HQS because of family size or composition.



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D. Restrictions on Assistance for non-citizens - Informal Review
Procedure for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the PHHC provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance* or within 30 days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision to request the review. 17.3 INFORMAL HEARINGS FOR PARTICIPANTS (24 CFR 982.555)

A. When a Hearing is Required

The PHHC will give a participant family an opportunity for an informal hearing to consider whether the following PHHC decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and PHHC policies:

1. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHHC utility allowance schedule.
3. A determination of the family unit size under the PHHC subsidy standards.
4. Denial of a hardship exemption to the minimum rent requirement.
5. A determination to terminate assistance for a participant family because of the family's action or failure to act (see 24 CFR 982.552)
6. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the PHHC policy and HUD rules.



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In cases described in paragraph 17.3, (A)(5), and (6), of this Section, the PHHC will give the opportunity or an informal hearing before the PHHC terminates housing assistance payments for the family under an outstanding HAP contract.

B. When a Hearing is Not Required

The PHHC will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by the PHHC.
2. General policy issues or class grievances.
3. Establishment of the PHHC schedule of utility allowances for families in the program.
4. A PHHC determination not to approve an extension or suspension of a Housing Choice Voucher term.
5. A PHHC determination not to approve a unit or lease.
6. A PHHC determination that an assisted unit is not in compliance with HQS. (However, the PHHC will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in 24 CFR 982.551(c).)
7. A PHHC determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the PHHC to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 17.3 (A)(1)(2), and (3), of this Section, the PHHC will notify the family that the family may ask for an explanation of the basis of the PHHC determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraph 17.3(A)(5), and (6), of this Section, the PHHC will give the family prompt written notice that the family may request a hearing within fourteen (14) calendar days of the notification. The notice will:



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- a. Contain a brief statement of the reasons for the decision; and
- b. State that if the family does not agree with the decision, the family may request an informal hearing; and
- c. State that the request for the informal hearing must be received within fourteen (14) calendar days of the date of notification.

D. Expeditious Hearing Process

Where a hearing for a participant family is required under this section, the PHHC will proceed with the hearing in a reasonably expeditious manner upon the family's request, generally within fourteen (14) calendar days.

Due to the time sensitive nature of the hearing process, it is extremely important that scheduled hearing times be adhered to. Hearings will only be rescheduled due to extenuating circumstances. Extenuating circumstances must be proven and/or documented in order for the hearing to be rescheduled.

E. Hearing Procedures

The PHHC and participants will adhere to the following procedures:

1. Discovery
 - a. The family will be given the opportunity to examine before the hearing any PHHC documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the PHHC does not make the document(s) available for examination on request of the family, the PHHC may not rely on the document at the hearing.
 - b. The PHHC will be given the opportunity to examine, at the PHHC's offices before the hearing, any family documents that are directly relevant to the hearing. The PHHC will be allowed to copy any such document at the PHHC's expense. If the family does not make the document(s) available for examination on request of the PHHC, the family may not rely on the document at the hearing.

Note: the term document includes records and regulations.



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2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by the PHHC, other than a person who made or approved the decision under review or a subordinate of this person.
- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the PHHC hearing procedures.

4. Evidence

The PHHC and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules and evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing will provide to the PHHC and/or the program participant, the outcome of the decision after the informal review within fourteen (14) calendar days of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

Should the person who conducts the hearing require an extension of the fourteen (14) calendar days to make a final decision, they will notify the PHHC and/or the program participant in writing prior to the end of the fourteen (14) calendar days with a statement of the reasons for the extension and a statement of the approximate date the final decision will be made.

F. Effect of the Decision

The PHHC is not bound by a hearing decision:

1. Concerning a matter for which the PHHC is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the PHHC hearing procedures.



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2. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local law.
3. If the PHHC determines that it is not bound by a hearing decision, the PHHC will notify the family within fourteen (14) calendar days of the determination, and of the reasons for the determination.

G. Informal Hearing Procedures for Denial of Assistance of the Basis of Ineligible Immigration Status (24 CFR 5.514)

The participant family may request that the PHHC provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision. In cases of determination of ineligible immigration status, the PHHC must offer an applicant or participant family the opportunity to request an informal hearing. A family may request an informal hearing within 30 days of receipt of an ineligibility determination from the U.S. Immigration and Naturalization Service (INS), or the PHHC's decision to delay, terminate, or deny assistance.

The PHHC must keep all denial or termination of assistance documents related to immigration status for a minimum of five (5) years. These include any applications for initial or continued assistance.

With good cause, the PHHC may extend the period to request an informal hearing related to immigration status.



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