

Chapter 9

RE-EXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

In accordance with HUD requirements, the NBHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Annual recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition, but the NBHA decides what other changes must be reported and the procedures for reporting them. This chapter defines the NBHA's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the NBHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the NBHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)].

For all residents of public housing, whether those residents are paying income-based or flat rents, the NBHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.

The NBHA is required to obtain information needed to conduct reexaminations. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS [24 CFR 960.257(a)(1)].

Generally, the NBHA schedule annual reexaminations by development. The NBHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

If the family transfers to a new unit, the NBHA will perform a new annual reexamination, and the anniversary date will be changed.

The NBHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the NBHA to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent 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 NBHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the NBHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without NBHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

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 NBHA-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.

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 frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

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 NBHA requests verification

because it 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

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The NBHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Chapter 13-IV.B.

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals **at re-examination**, the NBHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the NBHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

In general, an increase in the tenant 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 the NBHA 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 NBHA, 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

underpaid rent and may be offered a repayment agreement in accordance with the NBHA policies.

In general, a decrease in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the NBHA 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 NBHA.

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 NBHA by the date specified, and this delay prevents the NBHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS **[24 CFR 960.257(2)]**

9-II.A. OVERVIEW

HUD requires that the NBHA offer all families the choice of paying income-based rent or flat rent at least annually.

For families who choose flat rents, the NBHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The NBHA is only required to provide the amount of income-based rent the family might pay in those years that the NBHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the NBHA must also review community service compliance and should have each adult resident consent to a criminal background check.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

For families paying flat rents, the NBHA will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

In conducting full reexaminations for families paying flat rents, the NBHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D,.

HARDSHIP: A family paying flat rent may request a switch to income-based rent at any time that payment of flat rent becomes a financial hardship. We will review the request within thirty (30) days. If we determine that a hardship exists, we will immediately allow the switch to income-based rent.

A hardship may exist for a family who has lost eligibility for, or is awaiting an eligibility determination for a federal, state, or local assistance program if the loss of eligibility has an impact on the family's ability to pay the minimum rent. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the following (i) implementation of assistance, if approved, or (ii) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship.

- **The family would be evicted because it is unable to apply the minimum rent.**
- **Family income has decreased because of changes in family circumstances, including the loss of employment.**
- **A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g. because of funeral-related expenses, or the loss of the family member's income).**
- **The family has experienced other circumstances verified by the NBHA.**

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

Generally, the family will not be required to attend an interview for an annual update. However, if the NBHA determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail or hand delivered and will inform the family of the information and documentation that must be provided to the NBHA. The family will have 10 business days to submit the required information to the NBHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The NBHA will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the NBHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the NBHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The NBHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Chapter 13.

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the NBHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and NBHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the NBHA must process interim reexaminations to reflect those changes.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within ten (10) business days.

The NBHA 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 NBHA approval. However, the family is required to promptly notify the NBHA of the addition [24 CFR 966.4(a)(1)(v)].

The family must inform the NBHA of the birth, adoption or court-awarded custody of a child within 10 business days and provide the documentation of the court awarded custody and adoption paperwork.

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 NBHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

Families must request NBHA 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 **15 calendar days** during ~~any~~ a 12 month **calendar year period**, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the NBHA prior to the individual moving into the unit.

The NBHA will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit (under the transfer policy in chapter 12), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the NBHA. Exceptions will be made on a case-by-case basis.

The NBHA will not approve the addition of a new family or household member unless the individual meets the NBHA’s eligibility criteria (see Chapter 3) and documentation required.

If the NBHA determines that an individual does not meet the NBHA’s eligibility criteria or documentation required, the NBHA 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 NBHA 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

If a family member ceases to reside in the unit, the family must inform the NBHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the NBHA in writing within 10 business days.

Documentation must be provided as to where the family member moved to in the form of a lease, rental receipt, name and address of new landlord and current mail received at new address.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

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

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

PHA-initiated Interim Reexaminations

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

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

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

If the family has reported zero income, the NBHA will conduct an interim reexamination every 3 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 NBHA 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 NBHA will conduct an interim reexamination.

The NBHA 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 NBHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(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 960.257(b)].

Required Reporting

HUD regulations give the NBHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

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

Optional Reporting

An interim reexamination will take place any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The NBHA must process the request if the family reports a change that will result in a reduced family income [~~PH Occ GB, p. 159~~].

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].

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family may notify the NBHA of changes either orally or in writing. If the family provides oral notice, the NBHA ~~may~~ **will** also require the family to submit the changes in writing **on the appropriate NBHA form.**

~~Generally, the family will not be required to attend an interview for an interim reexamination. However, if the NBHA determines that an interview is warranted, the family may be required to attend.~~

Based on the type of change reported, the NBHA 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 NBHA. This time frame may be extended for good cause with NBHA approval. The NBHA will accept required documentation by mail, by fax, or in person. **The family is required to sign all necessary paperwork to complete the re-examination process.**

Effective Dates

The NBHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

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 underpaid rent 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. 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 IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the NBHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257].

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the NBHA's utility allowance schedule [24 CFR 960.253(c)(3)].

Unless the NBHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the NBHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the NBHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the NBHA's schedule of Utility Allowances for families in the NBHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the NBHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the NBHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the NBHA's grievance procedure [24 CFR 966.4(c)(4)].

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the NBHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the NBHA may discover errors made by the NBHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

The tenant rent calculations must reflect any changes in the NBHA's utility allowance schedule [24 CFR 960.253 (c) (3)].

Unless the NBHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.