

## Chapter 2

### ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

#### **INTRODUCTION**

This Chapter defines both HUD's and HOC's criteria for admission and denial of admission to the HCV program. HOC's policy is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. HOC staff review all information provided by the family carefully and without regard to factors other than those defined in this chapter. Families are provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by HOC pertaining to their eligibility.

#### **A. ELIGIBILITY FACTORS** [982.201(B)]

HOC accepts applications only from families whose head or spouse is at least 18 years of age.

Participation eligibility is determined based on an applicant family's ability to meet HUD's criteria, as well as any permissible additional criteria established by HOC.

The HUD eligibility criteria are:

An applicant must be a "family".

An applicant must be within the appropriate Income Limits.

An applicant must provide Social Security Numbers for all family members.

An applicant must furnish Declaration of Citizenship or Eligible Immigrant Status and verification where required.

At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before HOC can provide any financial assistance.

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admission criteria.

The family's initial eligibility for placement on the wait list is made in accordance with the eligibility factors described herein.

Evidence of Citizenship/ Eligible Immigrant Status is not verified until the family is selected from the wait list for final eligibility processing for issuance of a voucher.

**B. FAMILY COMPOSITION** [24 CFR 982.201]

The applicant must qualify as a family. A family may be a single person or a group of persons.

”Family” includes a family with a child or children. A family includes a group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides. HOC determines if any other group of persons qualifies as a family.

A single person family may be:

An elderly person;

A displaced person;

A person with a disability; and/or

Individuals are not considered disabled, for HCV eligibility purposes, solely on the basis of any drug or alcohol dependence.

Any other single person.

A child who is temporarily away from home because of placement in foster care is still considered a member of the family. However, this provision pertains only to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A family also includes:

Two or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship.

Two or more elderly or disabled persons living together, or one or more elderly, near-elderly, or disabled persons living with one or more live-in aides.

**Head of Household**

The head of household is the adult member of the household who is designated by the family as the head. The head of household is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/ local law.

**Spouse of Head of Household**

Spouse means the husband or wife of the head of household.

For proper application of the Non-Citizen Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. This includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads of the household.

### **Co-Head of Household**

A co-head of household is an individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or a co-head, but not both. A co-head never qualifies as a dependent.

### **Live-in Aides**

A Family may include a live-in aide provided that such live-in aide:

Is determined by HOC to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities;

Is not obligated for the support of the person(s) whom they assist;

Would not be living in the unit except to provide care for the person(s) whom they assist; and

Meets the relevant occupancy requirements of the housing program (see Chapter 5 of this Administrative Plan for the Occupancy Requirements of the Housing Choice Voucher program).

A live-in aide is treated differently than family members, as follows:

Income of the live-in aide is not counted for purposes of determining eligibility or level of benefits;

Live-in aides are not subject to the Non-Citizen Rule requirements; and

Live-in aides are not eligible for consideration as a remaining member of the tenant family.

Relatives are not automatically excluded from serving as live-in aides, but they must meet all of the criteria of the live-in aide definition described above.

A live-in aide may only reside in a unit with a reasonable accommodation approval from HOC. Written verification is required from a reliable, knowledgeable health provider, such as a medical doctor, social worker, therapist, or caseworker. The health verification provider must certify that a live-in aide is needed for the care of the family member who is elderly (62+), near-elderly (50-61), and/or disabled. The health provider must also list the number of hours for which the elderly, near-elderly, and/or disabled household member requires assistance from the aide each day.

HOC periodically requires families with live-in aides to submit documentation to support the continued need for their live-in attendant.

At any time, HOC can refuse to approve a particular person as a live-in aide or may withdraw such approval, in accordance with 24 CFR 982.316, if:

The aide commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

The person commits drug-related criminal activity or violent criminal activity; and/or

The person currently owes rent or other amounts to HOC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

If a specific live-in aide is disqualified, they must move out of the unit. Importantly, disqualification of a specific live-in aide does not remove the original live-in aide approval from HOC. Rather, the household member for whom the aide assistance is required needs only to submit the name and information of a new person to take over the role of live-in aide. A new reasonable accommodation request is not needed for this purpose.

### **Split Households Prior to Voucher Issuance**

When a family on the wait list splits into two otherwise eligible families due to divorce or legal separation and the new families both claim the same placement on the wait list, and there is no court determination, HOC makes the final decision taking into consideration the following factors:

Which family member applied as head of household;

Which family unit retains the children or any disabled or elderly members;

Restrictions that were in place at the time the family applied;

Role of domestic violence in the split; and/or

Any recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, HOC may deny their placement on the wait list for failure to supply information requested by HOC.

### **Multiple Families in the Same Household**

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they are treated as a family unit.

### **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51 percent of the time are considered members of the household in which they live at least 51 percent of the time. "51 percent of the time" is defined as 183 days of the year. These 183 days do not need to run consecutively.

There is a self-certification required of families who claim joint custody or temporary guardianship.

When both parents are on the wait list and both are trying to claim the child, the parent whose address is listed in the child's school records is allowed to claim the school-age child as a dependent.

In cases in which parents have joint custody of a child or children (50/50 custody), HOC grants the child deduction to the household of record provided by Montgomery County Public Schools or a private school. If the child is residing outside of HOC's jurisdiction, due to joint custody, the principal household of record provided by the applicable school system is used to determine living arrangements and the standard deduction.

If the child is not enrolled in school, HOC relies upon official records from daycare providers, tax records, and insurance providers such as Medicaid.

### **Split Households during Program Participation**

When families currently receiving assistance split, the current head of household retains continual voucher assistance. Remaining family members must separately apply when the wait list is open to receive their own, separate assistance.

### **C. INCOME LIMITATIONS** [24 CFR 982.201(b), 982.353]

A family's annual income at the time of admission must not exceed the very low-income limits for occupancy established by HUD.

Income eligibility requires that the applicant family is in the extremely low-income category, which is a family whose income does not exceed 30 percent of the area median income (AMI). HOC may select up to 25 percent of new applicants in the very-low income category, which is a family whose income does not exceed 50 percent of AMI. HOC will not admit families whose income exceeds 50 percent of AMI except those families specifically described in the Code of Federal Regulations (CFR) at 24 CFR 982.201(b).

Income eligibility requires that the applicant family is under the low-income limit in any of the following categories described in 24 CFR 982.201(b)(1)

A very low-income family.

A low-income family that is continuously assisted under the 1937 Housing Act.

An applicant is continuously assisted if the family received assistance under any 1937 Housing Act program within 120 days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.

A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.

A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.

A low-income non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173.

A low-income family or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.

A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project that is subject to a resident homeownership program.

To determine if a family is income-eligible, HOC compares the annual income of the family to the applicable income limit for the family's size.

Families whose annual income exceeds the income limit are denied admission and offered an informal review.

Portability: For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

#### **D. MANDATORY SOCIAL SECURITY NUMBERS** [24 CFR 5.216, 5.218]

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who do not have a Social Security Number must sign a certification that they were never issued a Social Security Number.

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 90 days.

HOC permits a 90-day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of six (6) years old. HOC must grant an extension of one additional 90-day period if HOC determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. For example, an applicant may be able to demonstrate timely submission of a request for a Social Security Number, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, HOC must impose appropriate penalties, in accordance with the Code of Federal Regulations at 24 CFR 5.218.

If merited, HOC offers a grace period and/or an extension. HOC implements this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of six (6) years may become a participant family, even if the Social Security Number for the child is unverified at the time of admission. If the Social Security Number is still not verified at the end of the initial 90-day period, then HOC must determine whether a 90-day extension is merited. If it is not merited, then HOC must follow the provisions of 24 CFR 5.218. If a 90-day extension is merited, then HOC must either verify the Social Security Number for the child by the end of the 90-day extension period or follow the provisions of 24 CFR 5.218.

#### **E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS** [24 CFR Part 5, Subpart E]

In order to receive assistance, at least one member of the household must be a U.S. citizen or have eligible immigration status. Individuals who are neither, may elect not to contest their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families: A family is eligible for assistance as long as at least the head of household or spouse is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families are given notice that their assistance is pro-rated and that they may request a hearing if they contest this determination.

All Members Ineligible: Applicant families that include no eligible members are ineligible for HCV assistance. Such families are denied admission and offered an opportunity for a hearing.

Non-Citizen Students: Defined by HUD in the non-citizen regulations. Non-Citizen Students are not eligible for HCV assistance.

Appeals: For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

## **Verification of Status Before Admission**

HOC does not provide assistance to families prior to the verification of eligibility for the individual or at least one member of the family, pursuant to this section.

### **F. OTHER CRITERIA FOR ADMISSIONS** [24 CFR 982.552(b)]

HOC applies the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the HCV program:

- The family has not violated any family obligations during a previous participation in the Section 8 program for at least three years prior to final eligibility determination.
- HOC will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
- The family must pay any outstanding debt owed TO HOC or to another PHA as a result of prior participation in any federal housing program within 30 days of the PHA's notice to repay.
- The family is in good standing regarding any current payment agreements made with another PHA for a previous debt incurred.
- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, HOC may deny their assistance and refer the family file/ record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

Program eligibility restrictions are extended to include any individual who:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965;
- Is under 24 years of age;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child, and
- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to HCV assistance under section 8 of the 1937 Act.

For a student under the age of 24 who is not a veteran, is unmarried, does not have a dependent child, and who is seeking Section 8 Assistance, there is an eligibility test. Both the student and the student's parents (the parents individually and jointly) are part of this eligibility test. The student



and his/her parents must be income eligible for the student to receive Section 8 Assistance. If the parents are not income eligible, the student is ineligible to receive Section 8 Assistance.

The student's parents' income may be irrelevant if the student can demonstrate the absence of, or his/her independence from, their parents. All of the following criteria must be met:

- The individual is of legal contract age under state law.
- The individual has a household separate from his/her parents or legal guardians, and has had it for at least one year prior to application for occupancy.
- The individual meets the status of Independent Student as defined by the U.S. Department of Education.
- The individual is not claimed as a dependent by his/her parents or legal guardians pursuant to Internal Revenue Service (IRS) regulations.
- The individual obtains a certification of the amount of financial assistance that his/her parents will provide, signed by the individual providing the support. The certification is required even if no assistance is ultimately provided.

These restrictions do not affect students residing in a Section 8 assisted unit with his/her parents or one who resides with their parents who are applying to receive Section 8 assistance. The restriction is focused on a student under the age of 24 who is already residing in a Section 8 assisted unit without his or her parents, or one who is seeking on his/her own Section 8 unit in which to reside.

#### **G. TENANT SCREENING** [24 CFR 982.307)]

HOC takes into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

HOC does not screen family behavior or suitability for tenancy. HOC is not liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before HOC's approval of the tenancy, HOC informs the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982.307(a)(3)]

Payment of rent and utility bills;

Caring for a unit and premises;

Respecting the rights of other residents to the peaceful enjoyment of their housing;

Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and/or

Compliance with other essential conditions of tenancy.

HOC advises families how to file a complaint if they experience discrimination from an owner. HOC advises families how to make a Fair Housing complaint with HUD. HOC may also report the owner to HUD (Fair Housing/Equal Opportunity) or a local Fair Housing Organization, if the Agency becomes aware of fair housing discrimination concerns.

#### **H. CHANGES IN ELIGIBILITY PRIOR TO THE EFFECTIVE DATE OF THE CONTRACT**

Eligibility changes that occur during the period between the issuance of a voucher and lease up by the family may affect the family's eligibility or share of the rental payment.

#### **I. INELIGIBLE FAMILIES**

Families who are determined ineligible are notified in writing of the reason for their denial and are given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See the "Complaints and Appeals" chapter of this Administrative Plan for additional information about reviews and hearings.

#### **J. PROHIBITED ADMISSIONS CRITERIA** [982.202(b)]

Admission to the HCV program is not based on where the family lives before admission to the program.

Furthermore, admission to the HCV program is not based on any of the following:

Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;

Discrimination because a family includes children;

Whether a family decides to participate in a family self-sufficiency program; and/or

Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.