

# Chapter 11.A

## Reexaminations

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# Chapter 11.A.

## Reexaminations

### Introduction

This chapter is applicable until the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 11.B. of the model policy.

The PHA 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 PHA 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 PHA 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. PHAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to use of Safe Harbor income verifications.

## **11-I.B. Streamlined Annual Reexaminations [24 CFR 982.516(b); New HCV GB, Reexaminations]**

HUD permits PHAs 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 PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA 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 PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

#### **Commerce Policy**

**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 PHA 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].

#### **Commerce Policy**

**Commerce or Field Agencies will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, Commerce or Field Agencies 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, Commerce or Field Agency will perform a new annual reexamination.**

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

### **Commerce Policy**

**Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. Reexaminations may be done in person, by mail, or online, if available. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact Commerce or Field Agency to request a reasonable accommodation (see Chapter 2).**

**Notification of annual reexamination interviews will be sent by USPS 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 must contact Commerce in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, Commerce will send a second notification via USPS with a new interview date and appointment time.**

If a family fails to attend two scheduled interviews without Commerce 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 Commerce must execute a certification attesting to the role and the assistance provided by any such third party.

## **11-I.D. Conducting Annual Reexaminations**

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

### **Commerce 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 Commerce-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 PHAs 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].

### **Commerce Policy**

**At the annual reexamination, Commerce will ask whether the tenant, and any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. Commerce will use the State of Montana Sexual Violent Offender Registry (SVOR) and the National Sex Offender Public Website (NSOPW) databases to verify the information provided by the tenant.**

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA 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.)

### **Commerce Policy**

**Commerce will also review the State of Montana Offender Search (Conweb) at the time of annual reexamination to determine adult household members' continued eligibility in accordance with 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 PHA 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 PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA 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 their parents or is considered a *vulnerable youth* in accordance with PHA 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.

### **Commerce Policy**

**During the annual reexamination process, Commerce 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 their 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 their own income or the income of their 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 their own income and the income of their parents (if applicable), Commerce will process a reexamination in accordance with the policies in this chapter.**

## **11-I.F. Effective Dates**

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

### Commerce 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 Commerce 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 Commerce, 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 Commerce 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 Commerce.**

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

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

### **Commerce Policy**

**All families must report all changes in family and household composition that occur between annual reexaminations within 10 business days of the change.**

## **New Family Members Not Requiring PHA Approval**

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

### **Commerce Policy**

**The family must inform Commerce 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 PHA 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)].

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable

unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

### **Commerce Policy**

**Families must request Commerce 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 or verbally and approved by Commerce prior to the individual moving into the unit.**

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

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

**If Commerce determines an individual meets Commerce's eligibility criteria and documentation requirements, Commerce 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 larger voucher and will be required to move.**

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

**Commerce 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 PHA 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 PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

### Commerce Policy

**If a household member ceases to reside in the unit, the family must inform Commerce, verbally or in writing, within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that Commerce concludes the individual is permanently absent.**

## Changes in Family Unit Size (Voucher Size) [24 CFR 982.505(c)(6)]

**Changes effective 12/2/24 and earlier:** Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

**Changes effective 12/3/24 and later:** Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size may be used to determine the payment standard immediately or at the family's first regular reexamination following the change in family unit size.

### Commerce Policy

**If the family unit size (voucher size) changes during the term of a HAP contract, the new family unit size will be used to determine the payment**

standard at the family's first regular (annual) reexamination following the change in family unit size.

## **11-II.C. Changes Affecting Income or Expenses**

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

### **PHA-Initiated Interim Reexaminations**

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

#### **Commerce Policy**

**Commerce will conduct interim reexaminations in each of the following instances:**

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

**Commerce 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 PHA 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 PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### **Commerce Policy**

**Families are required to report all increases in income; all additions of assets; and all reductions of eligible medical and childcare expenses. Changes must be reported in writing on a Commerce-designated form within 30 days of the effective date of the change. The change must be submitted with supporting documentation and may be considered incomplete until such documentation is provided by the family. In an instance where the family does not receive notification of a change in income until after 30 days of effective date, the family must report the change within 30 days of receipt of notification to the family.**



**An increase in adjusted income exceeding \$200 per month or \$2,400 annually since the last certification (annual, interim, lease up or change of unit) will require an interim reexamination to affect the family share of rent.**

**If a family reports an adjusted income increase that is less than \$200 month/\$2,400 annually, Commerce, in its sole discretion, may or may not conduct an interim reexamination.**

**If any new family member is added, family income must be included for any income of the new family member or additions to family income as a result of the new member additions.**

**Commerce will conduct an interim re-examination to review such additional income and will make the appropriate adjustment in the Housing Assistance Payment. Family unit size will be reevaluated at either the next annual reexamination or in the event the family elects to move units.**

**If a family member turns 18 prior to the effective date of the family-initiated interim, then the family income must include the income for the newly adult household member, which must also include documentation related to full-time student status.**

**An interim reexamination will be conducted for FSS participants that report increases or decreases in the family's income that results in a change of their monthly FSS escrow credit.**

### **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 PHA 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.

### **Commerce Policy**

**Families may report a decrease in income or increase in eligible expenses at any time. If a family reports a change in income or expenses that would result in a decrease in the family share of rent, Commerce will conduct an interim reexamination. Families must use either the TIF or the**

**Change Report Form in conjunction with supporting documentation when reporting any changes for interims.**

**If a family is eligible for increased medical deductions, they are encouraged to submit documentation to Commerce.**

**If a family reports a change via the Tenant Information Form, that was not required to report, the information will be noted in the tenant file and no interim reexamination will be conducted. Families may submit optional report changes in income or expenses at any time.**

## **11-II.D. Processing the Interim Reexamination**

### **Method of Reporting**

#### **Commerce Policy**

**The family must notify Commerce of changes in writing. Generally, the family will not be required to attend an interview for an interim**

reexamination. However, if Commerce determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, Commerce 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 Commerce. This time frame may be extended for good cause with Commerce approval. Commerce will accept required documentation by mail, by email, electronically (i.e., via Montana Secure File Transfer Service), or in person.

## Effective Dates

The PHA 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].

### Commerce 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 frame or fails to provide all required information within the required time frame, the increase will be applied to the first day of the month following the date of the change leading to the interim reexamination of family income. 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:**



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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 PHA 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 PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### Payment Standards [24 CFR 982.505 and FR Notice 5/7/24]

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 PHA changes its payment standard or when there is a change in family composition.

## 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 PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family immediately or 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 PHA'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 PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

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

### Commerce 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 PHA 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 PHA'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).

### **Commerce 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 will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.**

## **11-III.D. Discrepancies**

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