

## Chapter 12

### TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a HAPGC can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the HAPGC based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the HAPGC may consider in lieu of termination, the criteria the HAPGC must use when deciding what action to take, and the steps the HAPGC must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

## **PART I: GROUNDS FOR TERMINATION OF ASSISTANCE**

### **12-I.A. OVERVIEW**

HUD requires the HAPGC to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the HAPGC to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the HAPGC.

### **12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]**

As a family's income increases, the amount of HAPGC subsidy goes down. If the amount of HCV assistance provided by the HAPGC drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

#### HAPGC Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the HAPGC of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

### **12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request that the HAPGC terminate the family's assistance at any time.

#### HAPGC Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or cohead. Before terminating the family's assistance, the HAPGC will follow the notice requirements in Section 12-II.E.

### **12-I.D. MANDATORY TERMINATION OF ASSISTANCE**

HUD requires the HAPGC to terminate assistance in the following circumstances.

### **Eviction [24 CFR 982.552(b)(2)]**

The HAPGC must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.

#### HAPGC Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the HAPGC will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

### **Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The HAPGC must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a discussion of consent requirements.

### **Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The HAPGC must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the HAPGC, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

### **Failure to Provide Social Security Documentation [24 CFR 5.218(c)]**

The HAPGC must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number.

### **Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

The HAPGC must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

### **Lifetime Sex Offender [24CFR 5.856 and 5.905]**

In accordance with the regulations at 24 CFR 5.856 and 5.905, HAPGC must perform necessary criminal history background checks to determine if an applicant, or a member of an applicant's household, is subject to a lifetime registration requirement under a State sex offender registration program. This check must be carried out with respect to the State in which the housing is located and with respect to States where the applicant and members of the applicant's household are known to have resided.

HAPGC will make the determination, in accordance with their screening standards, whether the applicant and the applicant's household members meet the screening criteria. If these processes reveal that an applicant is a lifetime registered sex offender, or if the applicant withholds or falsifies information on the application, the HAPGC must deny admission to the program. Before admission can be denied, the applicant must be notified of the right to dispute the accuracy and relevance of the background check information.

HAPGC shall further deny any participants assistance if they or any member is subject to the lifetime sex offender restriction from assistance.

## **12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

### **Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the HAPGC to establish policies that permit the HAPGC to terminate assistance if the HAPGC determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity

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- Any household member has violated the family's obligation not to engage in violent criminal activity
    - For the purpose of determining a violation, HAPGC will not consider a family to be engaged in violent criminal activity if the family member is a victim in accordance with the Violence Against Women Act (VAWA). However, nothing should be considered to limit the termination of the person who engages in the criminal act or any other program obligations.

### *Use of Illegal Drugs and Alcohol Abuse*

#### HAPGC Policy

The HAPGC will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HAPGC will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

*Currently engaged in* is defined as any use of illegal drugs during the previous three-year period.

The HAPGC will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the HAPGC will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance.

### *Drug-Related and Violent Criminal Activity [24 CFR 5.100]*

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### HAPGC Policy

The HAPGC will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The HAPGC will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the HAPGC will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance.

### **Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]**

HUD permits the HAPGC to terminate assistance under a number of other circumstances. It is left to the discretion of the HAPGC whether such circumstances in general warrant consideration for the termination of assistance.

### HAPGC Policy

The HAPGC **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.

The HAPGC **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related HAPGC policies.

Any family member has been evicted from federally-assisted housing in the last five years.

Any HAPGC has ever terminated assistance under the program for any member of the family.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation, public housing or federally assisted programs.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the HAPGC or other PHA.

A family member has engaged in or threatened violent or abusive behavior toward HAPGC personnel.

*Abusive or violent behavior towards HAPGC personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the HAPGC will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the HAPGC may, on a case-by-case basis, choose not to terminate assistance.

#### ***Family Absence from the Unit [24 CFR 982.312]***

The family may be absent from the unit for brief periods. The HAPGC must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

#### **HAPGC Policy**

If the family is absent from the unit for more than 180 consecutive calendar days, without prior approval from the HAPGC, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

#### ***Insufficient Funding [24 CFR 982.454]***

The HAPGC will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the HAPGC determines there is a shortage of funding, prior to terminating any HAP contracts, the HAPGC will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HAPGC will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the HAPGC will inform the local HUD field office. The HAPGC will terminate the minimum number needed in order to reduce HAP costs to a level within the HAPGC's annual budget authority.

If the HAPGC must terminate HAP contracts due to insufficient funding, the HAPGC will do so in accordance with the following criteria and instructions:

HAPGC will terminate assistance to the most recent non-disabled or non-elderly family that has become a participant in the program, until such time as the HAPGC has sufficient funds to assist. The HAPGC shall terminate elderly/disabled, homeownership, and FSS assisted families last in the process. The family will not be required to reapply for the program when sufficient funds are available, but will be provided the opportunity to be assisted. The reinstatement of assistance for families shall be provided in the reverse order of the HAPGC's list of termination of assistance for the lack of sufficient funds

## **PART II: APPROACH TO TERMINATION OF ASSISTANCE**

### **12-II.A. OVERVIEW**

The HAPGC is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the HAPGC the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the HAPGC may choose to take when it has discretion, and outlines the criteria the HAPGC will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

### **12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]**

The way in which the HAPGC terminates assistance depends upon individual circumstances. HUD permits the HAPGC to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

### **12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

#### **Change in Household Composition**

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon HAPGC request.

#### **Repayment of Family Debts**

##### HAPGC Policy

If a family owes amounts to the HAPGC or another PHA, as a condition of continued assistance, the HAPGC will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

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## 12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

### Evidence

The HAPGC will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

### Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The HAPGC will consider the following factors when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The HAPGC will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

### **Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, the HAPGC's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

### **HAPGC Policy**

If a family indicates the behavior of a family member with a disability is the reason for a proposed termination of assistance, the HAPGC will determine whether the behavior is related to the disability. If so, upon the family's request, the HAPGC will determine whether alternative measures are appropriate as a reasonable accommodation. The HAPGC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

### **12-II.E. TERMINATION NOTICE [HCV GB, p. 15-7]**

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the HAPGC must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing as described in Chapter 16

A copy of the criminal record also must be provided to the subject of the record upon request and the family has the right to review the document. [24 CFR 982.553(d)].

When termination is initiated by the HAPGC, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HAPGC, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the HAPGC learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the HAPGC (see section 12-I.C.). The HAPGC will then send a confirmation notice to the family and the owner within 10 business days of the family's request.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan.

### **Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

The HAPGC must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the HAPGC determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the HAPGC either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

#### HAPGC Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

### **12-II.F. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE**

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

### **PART III: TERMINATION OF TENANCY BY THE OWNER**

#### **12-III.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the HAPGC is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

#### **12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum]**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

##### **Serious or Repeated Lease Violations**

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease. This includes failure to pay rent or other amounts due under the lease. However, the HAPGC's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

##### **Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

##### **Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

Violent criminal activity does not include victims of domestic violence that are covered under the Violence Against Women Act (VAWA).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may not terminate a victim of VAWA for criminal activity, unless doing so is compliance with VAWA.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

### ***Evidence of Criminal Activity***

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

### **Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

**Domestic Violence Provisions-VAWA (Protections for Victims of Abuse)**

An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy, or occupancy rights of such a victim.

Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of domestic violence, dating violence, sexual assault or stalking.

Notwithstanding any restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, a PHA, owner or manager may "bifurcate" a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others. This action may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the housing choice voucher program.

Nothing in this section may be construed to limit the authority of HAPGC, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

Nothing in this section limits any otherwise available authority of an owner or manager to evict or the HAPGC to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or HAPGC does not subject an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

Nothing in this section may be construed to limit the authority of an owner or manager to evict, or the HAPGC to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant is not evicted or terminated from assistance.

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault or stalking.

### **12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the HAPGC a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the HAPGC a copy of any eviction notice (see Chapter 5).

#### HAPGC Policy

If the eviction action is finalized in court, the owner must provide the HAPGC with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

### **12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]**

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

#### **12-III.E. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY'S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the HAPGC has no other grounds for termination of assistance, the HAPGC may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

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<b>EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS</b>
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Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the HAPGC or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the HAPGC or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

HAPGC Policy

Damages beyond normal wear and tear will be considered to be damages that could be assessed against the security deposit.

- The family must allow the HAPGC to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

HAPGC Policy

The HAPGC will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the HAPGC and the owner in writing before moving out of the unit or terminating the lease.

### HAPGC Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HAPGC at the same time the owner is notified.

- The family must promptly give the HAPGC a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the HAPGC. The family must promptly notify the HAPGC in writing of the birth, adoption, or court-awarded custody of a child. The family must request HAPGC approval to add any other family member as an occupant of the unit.

### HAPGC Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HAPGC will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the HAPGC in writing if any family member no longer lives in the unit.
- If the HAPGC has given approval, a foster child or a live-in aide may reside in the unit. The HAPGC has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HAPGC consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

### HAPGC Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the HAPGC to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the HAPGC when the family is absent from the unit.

### HAPGC Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than

30 calendar days. Written notice must be provided to the HAPGC at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space, or HCV Homeownership Program).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and HAPGC policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in near the premises. See Chapter 12 for a discussion of HUD and HAPGC policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HAPGC has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]
- A family or any member has not violated any provisions of the Voucher or regulations.