



U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Special Attention of:
Regional and Field Office Directors of Public
Housing; Financial Management Center;
Public Housing Agencies Administering
Housing Choice Voucher Programs; Regional
Directors; State and Area Coordinators

Notice PIH-2007-31

Issued: November 6, 2007

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Cross References:

HUD Notice PIH 2007-26

Subject: Disaster Housing Assistance Program (DHAP) – Revisions to the Operating Requirements

1. Purpose.

This Notice revises the Disaster Housing Assistance Program (DHAP) Operating Requirements to reflect that rental subsidy payments under DHAP will not commence until December 1, 2007. Previously, DHAP rental subsidy payments for the initial group of families transitioning from Federal Emergency Management Agency (FEMA) rental assistance to DHAP were scheduled to commence on November 1, 2007. FEMA will continue to make rental assistance payments (either directly or through FEMA's contractor Corporate Lodging Consultants (CLC)) on behalf of these families for November.

The Notice also clarifies that if a DHAP eligible family is admitted into another permanent housing assistance program such as the housing choice voucher program or public housing instead of receiving DHAP rental assistance, DHAP case management services are no longer provided to that family. The Notice revises the PHA's eligibility for the one-time placement fee to cover cases where a family is permanently housed in lieu of receiving DHAP rental assistance payments. The Notice addresses the applicability of the family obligations with respect to serious and repeated lease violations. In addition, the Notice corrects the list of family obligations to include three obligations inadvertently omitted from HUD Notice PIH 2007-26. Finally, the Notice provides guidance on changes in family composition, including the family's eligibility for continued DHAP assistance if the Head-of-Household dies or otherwise leaves the family.

2. Background.

HUD Notice PIH 2007-26, Disaster Housing Assistance Payments Program (DHAP) Operating Requirements, was issued on August 16, 2007. PHAs administering DHAP began pre-transitional case management services for the first group of families transitioning to the DHAP on or after September 1, 2007. HUD Notice PIH 2007-26 further provided that PHAs would make rental assistance payments on behalf of eligible families to participating landlords for a period not to exceed 16 months, with rental assistance payments commencing no earlier than November 1, 2007 and ending by March 1, 2009.

Pre-transitional case management activities have begun under the DHAP and HUD is very appreciative of the efforts of the participating PHAs. However, despite the overall progress to date, both family outreach efforts and the administrative process necessary to transition the families to the DHAP has proven to be more time-consuming in certain areas than anticipated. Consequently, HUD and FEMA concluded that changing the effective date of the initial rent subsidy payment under DHAP to December 1, 2007 will ensure that there is no disruption in the flow of the rental subsidies paid on behalf of eligible families for November. As noted above, FEMA or FEMA's contractor CLC shall continue to make the rental assistance payments on behalf of the transitioning families for November. PHAs, families, and participating owners have been notified by letter of the postponement of the effective date for the initial DHAP rental subsidy payment and the continuation of the FEMA rental assistance payment for November.

HUD has also received a number of inquiries related to various programmatic issues such as the one-time placement fee, changes in family composition, and the application of the family obligations. This Notice further amends and supplements HUD Notice PIH 2007-26 to address those issues.

3. Effective Date of DHAP Rent Subsidy Contract (DRSC) and Commencement of Rent Subsidy Payments.

The DHAP Operating Requirements are revised to reflect that rental subsidy payments shall not commence until December 1, 2007. Under DHAP, PHAs will make rental assistance payments for a period not to exceed 15 months. **For families receiving FEMA rental assistance that are part of the initial transition to DHAP, the DRSC and the lease addendum should be executed and recorded in the Disaster Information System (DIS) as soon as possible but no later than November 14, 2007, to guarantee there will be no disruption or delay in the payment of the family's monthly rental subsidy.** However, The DRSC and lease addendum may not be effective on behalf of any participating family before December 1, 2007.

The revised date for the commencement of DHAP rental assistance payments and the maximum term of assistance do not impact any other programmatic requirements. For example, the DHAP still ends as of March 1, 2009. The incremental rent transition

requirement still goes into effect on March 1, 2008 (see section 4h of HUD Notice PIH 2007-26).

The amount of administrative fees for which a PHA is eligible under DHAP is not affected by this change. Please note that while the pre-transitional activities fees are only provided for September and October 2007, PHAs will still receive the regular case management services fee to cover November 2007. For November 2007 – February 2008 the regular case management services fee is based on the number of families initially referred to the PHA, and the calculation is the same calculation that was used to determine the pre-transitional activities fee. Beginning in March 2008 the case management services fee will be based on the actual number of families under DHAP lease (see Topic 1-10 of the DHAP Frequently Asked Questions, Set 1, dated August 30, 2007). Therefore, the delay in the effective date of the rental subsidy payments under DHAP has no impact on the amount of case management services fees that the PHA is eligible to receive for November 2007.

Any reference in HUD Notice PIH 2007-26 to November 1, 2007, as the effective date for rental subsidy payments under DHAP is superseded by this Notice and is no longer applicable. In addition, any reference in HUD Notice PIH 2007-26 to 16 months being the maximum term of rental assistance payments under DHAP is superseded by this Notice and is no longer applicable. The maximum term of the DHAP rental subsidy payments is now 15 months.

4. Clarification of Case Management Services Requirements and Applicability of the DHAP One-Time Placement Fee. Section 4m of the HUD Notice PIH 2007-26 provides that during the time the family is assisted under DHAP, each family will participate in case management services provided by the PHA. Case management services are required as part of the DHAP.

Several questions have been raised regarding the PHA's obligation to provide on-going case management services for a referred DHAP eligible family in cases where the family, rather than receiving DHAP rental assistance, is instead admitted to another housing program administered by the PHA. (For instance, a family referred to the PHA may potentially be eligible for permanent housing assistance programs such as the housing choice voucher program or public housing. Some PHAs have provided a local preference for admission to these programs for families that were displaced by natural disasters.)

If the family applies and is determined eligible and admitted into another permanent housing program rather than receiving DHAP rental assistance, the PHA will not provide the DHAP case management services for that family and will not receive payment for providing case management services after the family is admitted into the other program. Likewise, if a PHA is making monthly rent subsidy payments on behalf of a DHAP participating family who subsequently leaves the DHAP for any reason (including admission to a permanent housing assistance program), the DHAP on-going case management services requirement ends at such time the family's participation in DHAP

ends, and the on-going case management fees applicable to that particular family is discontinued.

Section 4(d) of HUD Notice PIH 2007-26 provides that the one-time placement fee is paid at the time the family's unit is placed under a DRSC. This notice clarifies that the PHA also qualifies for a one-time placement fee to cover cases where the PHA succeeds in assisting the DHAP-eligible family in finding permanent housing in lieu of receiving DHAP rent subsidy assistance.

For example, if the family is housed through the PHA's voucher program or public housing program instead of receiving DHAP rent subsidy assistance, the PHA will receive a \$1,000 one-time placement fee. The PHA does not earn the one-time placement fee until the family is actually housed. For example, if a family is to be assisted through admittance to the PHA's housing choice voucher program, the PHA would not qualify for the placement fee until the family's unit is under an actual voucher HAP contract.

PHAs will report the placement of the family into permanent housing through a new code in the DIS. By checking the appropriate code, the PHA is certifying that the family has been permanently housed and the PHA qualifies for the placement fee as a result. The actual amount of the \$1,000 placement fee for these families will be settled through DIS reporting.

The PHA may only receive a single one-time placement fee per family. The \$1,000 placement fee for families that the PHA succeeds in finding permanent housing is only paid in cases where the family does not receive DHAP rent subsidy payments. The PHA has already received the one-time placement fee for a family when it executes a DRSC on behalf of the family and does not receive an additional placement fee if the family subsequently leaves the DHAP for permanent housing.

5. Family Obligations – Lease Violations.

Section 4n of HUD Notice PIH 2006-27 covers family obligations under the DHAP. A family receiving assistance under DHAP must comply with all of the family obligations during their participation in the program. However, any action that occurred before the PHA briefed the family on DHAP and the family signed the certification is not grounds for termination from participation in the DHAP.

Most of the families initially transitioning to the DHAP are already under existing leases. In the case where a family is already under lease and wishes to remain in-place to receive DHAP assistance, the owner and family may enter into a new lease that commences at the same time as the DRSC, or they may remain under the existing lease provided that the DRSC and the DHAP lease addendum are executed. Under the family obligations, the family may not commit any serious or repeated violation of the lease, such as damaging the unit or failing to pay their share of the rent in accordance with the lease.

This is to clarify that the DHAP family obligation not to commit any serious or repeated violation of the lease solely concerns lease violations that occur during the portion of the lease term that commences on the effective date of the DHAP lease addendum and the DRSC. For example, if an owner refused to enter into a lease addendum and DRSC and the family moved in violation of the lease in order to receive DHAP assistance at another unit, the fact the family moved in violation of its lease after the briefing and signing the family obligations certification is not grounds for the PHA to terminate the family's participation in the DHAP, as the lease was not covered by the DHAP at the time of the violation.

While serious or repeated lease violations that occur before the effective date of the executed lease addendum and DRSC may result in an owner exercising his or her rights and remedies under the lease (and State and local law), including but not limited to the termination of the tenancy, these lease violations are not grounds for the PHA to terminate the family's participation in the DHAP. Please note, however, that while the grounds for termination due to a serious or repeated lease violation only concern lease violations that occur on or after the effective date of the DHAP tenancy, the PHA may still take action to terminate the family's participation from the DHAP if the underlying cause of the lease violation also constitutes a violation of one or more of the other family obligations (for example, engaging in drug-related or violent criminal activity). In such circumstance, the family's action or inaction would be grounds for termination by the PHA from the DHAP if the action occurred after the family briefing and the signing of the family obligations certification, regardless of whether the DRSC and lease addendum were effective at the time of the violation.

6. Additional Family Obligations.

The list of family obligations set forth in HUD Notice PIH 2007-26 inadvertently omitted the following family obligations under the DHAP:

- (1) The members of the family may not engage in other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.
- (2) The members of the family may not engage in other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administrative function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent).
- (3) The members of the family may not threaten or engage in abusive or violent behavior toward PHA personnel.

The complete list of family obligations under the DHAP is as follows:

- (1) The family must supply any information to the PHA that HUD requires for DHAP assistance. Any information supplied by the family must be true

and complete.

- (2) The family may not commit any serious or repeated violation of the lease, such as damaging the unit or failing to pay their share of the rent in accordance with the lease.
- (3) During the term of the lease, the family must reside in the DHAP unit. The family must not sublease, let, assign the lease or transfer the unit. The family must not own or have any interest in the unit.
- (4) The family must notify the PHA before the family moves out of the unit or terminates the lease. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice of termination at the same time.
- (5) The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.
- (6) The members of the family must not commit fraud, bribery, or criminal act in connection with DHAP.
- (7) The members of the family may not engage in drug-related criminal activity or violent criminal activity.
- (8) The members of the family may not engage in other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.
- (9) The members of the family may not engage in other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administrative function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent).
- (10) The members of the family may not threaten or engage in abusive or violent behavior toward PHA personnel.
- (11) The family must participate in the required case management services provided by the PHA.
- (12) The family must comply with any additional requirements specified by HUD or FEMA.

The PHA must provide the family with the corrected and complete list of family obligations. As provided in HUD Notice PIH 2007-26, the Applicant, Co-applicant or Head of Household must sign a copy of the obligations and certify that he or she understands that the PHA may terminate DHAP assistance for a family that does not comply with the family obligations. If a family has already signed the family obligations and certified its understanding before this correction was issued, the PHA must require the Applicant, Co-applicant or Head of Household to sign the complete list of family obligations and recertify his or her understanding the PHA may terminate DHAP assistance for a family that does not comply with the family obligations.

7. Family Eligibility for the DHAP when Family Composition Differs from the Original DIS Family Record.

Initial family eligibility for the DHAP is determined by FEMA. The PHA accesses an eligible family's record through the DIS. The DIS record lists the head-of-household and the other members of the eligible family. If the PHA determines that the current composition of the family is now different than the family composition reflected in the DIS, the family is eligible for the DHAP provided that the family member designated by FEMA as the Head-of-Household is still a member of the family. If the family member designated by FEMA as the Head-of-Household is no longer a member of the family, the PHA may not transition the family to the DHAP at this time. Instead, the PHA will report the change in family composition to HUD. HUD will pass the information on to FEMA. The family will be contacted by FEMA, who will make the final determination as to whether the family would still be eligible for continued rental assistance under the DHAP. HUD will advise the PHA of the final FEMA determination with regard to the family's eligibility for DHAP assistance. In instances where a new Head-of-Household is designated, that person must agree to and follow the family obligations. Detailed information on this process will be posted separately on the following HUD website: <http://www.hud.gov/offices/pih/publications/hurricane.cfm>.

The DHAP is a disaster-related relief program designed to continue rental assistance for those households displaced by Hurricane Katrina or Hurricane Rita that FEMA has determined remain eligible for continued assistance. The FEMA rental assistance was based on the actual composition of the household that was displaced by the disaster and the amount of such assistance is not adjusted to cover subsequent increases in family size that occurred after the disaster, as the family's housing need with respect to these additional family members is not directly related to the hurricanes. Consequently, the DHAP does not take any increases in family size that occurred after FEMA's initial family eligibility determination into consideration for purposes of the DHAP rent subsidy calculation. Therefore, when determining the family unit size under the PHA subsidy standards for purposes of determining the applicable FMR/payment standard to calculate the family's initial DHAP rent subsidy payment, the PHA always uses the smaller of:

- (1) the family unit size for which the original composition of the family qualifies under the PHA subsidy standards; or
- (2) the family unit size for which the current composition of the family now qualifies under the PHA subsidy standards.

Note, however, that if the family is remaining in-place, the DHAP rent subsidy payment is based on the greater of the applicable FMR, payment standard, or the amount of monthly assistance that the family received under the FEMA rental assistance program for the unit prior to the transition to DHAP. (In no case may the rent subsidy payment exceed the monthly rent specified in the lease). The FEMA monthly rental assistance payment used in the subsidy calculation is always the actual monthly amount that was provided by FEMA or FEMA's contractor on behalf of the family immediately prior to

the family's transition to the DHAP, regardless of whether the actual family composition differs from the family composition provided by FEMA in the original DIS record.

Several examples of how the initial DHAP subsidy rent payment is calculated if the family composition differs from the original DIS record are provided in the attachment to this notice.

8. Continued Eligibility for DHAP Assistance For Remaining Family Members if the Head-of-Household Dies or Otherwise Leaves the Family.

If, during the time the family is receiving DHAP rental assistance, the family member designated as the Head-of-Household for purposes of FEMA's initial eligibility determination dies or otherwise leaves the family¹, the family (now comprised of the remaining members) may still be eligible for continued DHAP assistance. To be eligible for continued DHAP assistance, at least one of the remaining family members must (1) have been a member of the family determined eligible by FEMA for continued rental assistance under the DHAP (as evidenced by the original family record in DIS); and (2) have legal capacity to enter a lease under State and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

If none of the remaining family members originally determined eligible by FEMA for continued assistance under DHAP have legal capacity to enter into a lease under State and local law, the family may not be eligible for continued assistance. Should the family in this instance wish to add a new member with legal capacity to enter into a lease under State and local law, the PHA will report the proposed change in family composition to HUD. HUD in turn will pass the information to FEMA. The family will be contacted by FEMA who will make the final determination as to whether the family, with such a change in composition, is eligible for continued rental assistance under the DHAP. HUD will then advise the PHA of the FEMA determination. The new family member with legal capacity must agree to and follow the family obligations.

9. Other Changes in Family Composition for DHAP Participating Families.

A subsequent increase in the size of the family does not result in the family qualifying for a larger family unit size under the PHA subsidy standards for purposes of the subsidy calculation, either during the term of the existing DRSC or under any new DRSC. However, if the increase in family size results in the unit no longer meeting the HQS requirement under 982.401(d) that each dwelling unit must have at least one bedroom or living/sleeping room for each two persons, the PHA may grant an exception from this requirement on a case-by-case basis at the request of the family. The PHA may take the limited duration of DHAP assistance into consideration in making such a determination. The PHA must record any such HQS exception for the unit and must maintain a record of

¹Note that if the family breaks up and the designated Head-of-Household wishes to continue to receive DHAP, only those family members remaining with the Head-of-Household continue to receive the DHAP assistance.

the exception. There will be no increase in the DHAP rent subsidy in these exception situations.

If a decrease in the size of the family results in the family qualifying for a smaller family unit size under the PHA subsidy standards during the term of the DRSC, the lower FMR/payment standard amount is not applied to the family's subsidy calculation during the term of the DRSC. However, the smaller family unit size is used when determining the applicable FMR/payment standard for purposes of calculating the monthly rent subsidy under any new DRSC (e.g., a DHAP family moves to a new unit with continued DHAP assistance).

10. Other Matters. The information collection requirements imposed by HUD in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0169. In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.
11. Additional Information. Any questions related to this notice may be submitted by email to DHAP@hud.gov. Alternatively, questions may be addressed to the Housing Voucher Management and Operations Division at (202) 708-0477.

_____/s/
Orlando J. Cabrera, Assistant Secretary
for Public and Indian Housing

Attachment

Attachment

Examples of Initial DHAP Rent Subsidy Calculation When Current Family Composition Does Not Match Original DIS Record

Assume in all cases the Head-of-Household of record is a current member of the family. Bedroom is abbreviated below as “br”.

Example #1

Family Unit Size (based on original DIS record) = 2 br
Family Unit Size (based on current Family composition) = 1 br

1br FMR = \$700 2br FMR= \$850
1br Payment Standard = \$710 2br Payment Standard = \$870

Monthly Rent =\$875 FEMA Rental Assistance Payment = \$875

This is a 2br unit. The family is leasing in-place. Since the FEMA rental assistance payment is greater than both FMR and payment standard, the initial DHAP rent subsidy payment is simply the lesser of:

Monthly Rent (\$875) or FEMA rental assistance payment (\$875)

DHAP rent subsidy payment = \$875

Example #2

Family Unit Size (Original DIS record) = 2 br
Family Unit Size (Current Family composition) = 1 br

1br FMR = \$700 2br FMR= \$850
1br Payment Standard = \$710 2br Payment Standard = \$870

Monthly Rent =\$890 FEMA Rental Assistance Payment = \$875

Family is not leasing in-place but moving to a new unit to transition to DHAP. Consequently, the PHA does not take the amount of the FEMA Rental Assistance Payment that was being made on behalf of the family into consideration. The unit is a 2br unit.

1. PHA determines the greater of the applicable FMR or the applicable payment standard.
 - a. Take the smaller of the Family Unit Size based on Original DIS record (2br) or Family Unit Size based on current family composition (1br) **Use 1 br**
 - b. Take the smaller of the Family Unit Size (1br from the preceding step) or the actual unit size (2br) **Use 1 br**
 - c. **1 br payment standard (\$710) is greater than 1br FMR (\$700)**
2. Initial DHAP rent subsidy payment is the lesser of:

Monthly Rent (\$890) or Applicable Payment Standard (\$710)

Initial DHAP rent subsidy payment = \$710