



Special Attention of:

## Notice PIH 97-46 (HA)

HAs with Section 8 Moderate Rehabilitation, Tenant Based Certificate and Project Based Certificate Programs; Secretary's Representatives; State and Area Directors Office of Public Housing; State Directors Office of Native American Programs

Issued: 9/4/97

Expires: **09/30/98**

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Cross References:

**Subject:** Replacing Expiring Section 8 Moderate Rehabilitation (Mod Rehab) Housing Assistance Payments (HAP) Contracts in Fiscal Year (FY) 1998

**PURPOSE:** This Notice provides instructions to Public Housing Agencies and Indian Housing Authorities (HAs) for replacing expiring Section 8 Mod Rehab HAP contracts in FY '98. Expiring Mod Rehab HAP contracts generally will be replaced with tenant-based rental certificates in FY '98.

**BACKGROUND:** During FY '97, Section 211(b) of the Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1997 (FY '97 Appropriations Act) requires that upon the request of an owner of a multifamily housing project that is covered by an expiring project-based HAP contract, the Secretary shall renew the expiring contract as project-based assistance for a period of not more than 1 year. (See PIH Notice 96-95 and PIH Notice 97-19 for additional information). Section 211 (b) of the FY '97 Appropriations Act expires September 30, 1997 and **does not apply to Mod Rehab HAP contracts expiring in FY '98**. If the FY '98 Appropriations Act provides that HUD must renew Mod Rehab contracts expiring during FY '98, HUD will issue immediate instructions for renewing expiring Mod Rehab contracts.

**APPLICABILITY:** This Notice applies to all units under a Section 8 Mod Rehab HAP contract expiring between October 1, 1997 and September 30, 1998 including Mod Rehab contracts that were extended in FY '97.

**EFFECTIVE DATE:** This Notice is effective upon receipt.

**TENANT-BASED RENTAL CERTIFICATE ASSISTANCE:** HUD will provide HAs with tenant-based assistance, on a one-for-one basis, for all units under a Mod Rehab HAP contract at the time the HAP contract expires, this includes Mod Rehab units converted to rental certificates during the term of the Mod Rehab HAP contract. Assisted families residing in a

Mod Rehab unit covered by an expiring Mod Rehab HAP contract must be provided with a rental certificate at least 60 days prior to expiration of the Mod Rehab HAP contract. The HA must also notify owners 60 days prior to HAP contract expiration that assisted families will be issued certificates and that families may either locate an eligible unit of their choice on the private rental market or remain in their current Mod Rehab unit if the owner agrees to rent the unit to the family under the rental certificate program. If the family chooses to use its rental certificate at the current Mod Rehab unit, and the owner agrees to rent the unit to the family under the rental certificate program, the unit must meet all requirements of the Section 8 rental certificate program before an HA may grant lease approval and execute a rental certificate HAP contract on the unit (see 24 CFR §982.304). If the former Mod Rehab family is no longer eligible for rental assistance, the rental certificate must be provided to the next eligible family on the HA's waiting list.

**RENTAL VOUCHERS:** HAs that have a documented reason for replacing Mod Rehab units with Section 8 rental vouchers instead of certificates must request approval, in writing, from HUD Headquarters, Finance Division, 451 Seventh Street, SW Washington, DC 20410, Attention: Mary Conway. All requests must include justification for rental vouchers to replace expiring Mod Rehab HAP contracts instead of Section 8 rental certificates.

**EFFECTIVE DATE OF REPLACEMENT RENTAL CERTIFICATES:** The effective date of the replacement certificate and replacement funding increment is the first day of the month in which the term of the Mod Rehab HAP contract expires (e.g. if the Mod Rehab HAP contract expiration date is 10/15/97, the effective date of the replacement certificate and replacement funding increment will be 10/1/97). If the expiration date is the last day of a month, the effective date for the replacement rental certificate and funding increment will be the first day of the following month (e.g. if the Mod Rehab HAP contract expiration date is 10/31/97, the effective date of the replacement certificate and replacement funding increment will be 11/1/97).

**STATUTORY OWNER NOTIFICATION REQUIREMENTS:** Section 8(c)(9) of the United States Housing Act of 1937 required Section 8 Mod Rehab owners to provide written notice to HUD and each family not less than one year before the expiration of the HAP contract. The 1990 Emergency Supplemental Appropriations Act (P.L. 105-18, 111 Stat. 158) amended section 8(c)(9) to shorten the one year notice requirement to 180 days. Under 8(c)(9), the owner must send a copy of the notice to the appropriate HA. This notice is required to inform the project's residents of the impending HAP contract expiration.

If the owner has failed to provide the proper notice under Section 8(c)(9), the tenant is protected as if there were an assisted tenancy until such time as the owner provides the notice. If the owner has failed to provide the proper notice and the tenant continues to occupy the unit in an unassisted tenancy, the owner must not increase the tenant's rent above the level of the tenant payment (i.e. tenant rent) under the expiring HAP contract.

The owner is not entitled to any Section 8 rental assistance payments. Also during this time, the owner cannot terminate the tenancy of the family other than for serious or repeated violation of the lease, violation of applicable federal, state, or local laws, or for other good cause.

\_\_\_\_\_/s/\_\_\_\_\_  
Kevin Emanuel Marchman,  
Acting Assistant Secretary  
for Public and Indian Housing