

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The LMHA is committed to ensuring that funds made available to the LMHA are spent in accordance with HUD requirements.

This chapter covers HUD and LMHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents LMHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the LMHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

LMHA Policy

~~The~~ LMHA anticipates that the vast majority of families and LMHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that ~~the~~ LMHA’s program is administered effectively and according to the highest ethical and legal standards, ~~the~~ LMHA will employ a variety of techniques to ensure that ~~both~~ errors and intentional program abuse are rare. *Such methods include the following:*

- ~~The~~ LMHA will provide each applicant and resident with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- ~~The~~ LMHA will provide each applicant and resident with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, ~~the~~ LMHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- ~~The~~ LMHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. ~~The~~ LMHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.
- ~~The~~ LMHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.
- LMHA staff will be required to review and explain the contents of all HUD- and LMHA-required forms prior to requesting family member signatures.
- ~~The~~ LMHA will place a warning statement about the penalties for fraud (as

described in 18 U.S.C. 1001 and 1010) on key LMHA forms and form letters that request information from a family member.

- ~~The~~ LMHA will provide each LMHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, ~~the~~ LMHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

LMHA Policy

~~The~~ LMHA will employ a variety of methods to detect errors and program abuse, including:

~~The~~ LMHA routinely will use available sources of up-front income verification, including HUD's EIV system, to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

~~The~~ LMHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of LMHA activities and notifies the LMHA of errors and potential cases of program abuse.

LMHA Policy

~~The~~ LMHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the LMHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

LMHA Policy

~~The~~ LMHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When ~~the~~ LMHA Will Investigate

LMHA Policy

~~The~~ LMHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for ~~the~~ LMHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

~~The~~ LMHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The LMHA may investigate possible instances of error or abuse using all available LMHA and public records. If necessary, the LMHA will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

LMHA Policy

~~The~~ LMHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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 that as

a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation ~~the~~ LMHA will determine:

1. whether an error or program abuse has occurred
2. whether any amount of money is owed ~~the~~ to LMHA
3. what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether ~~the~~ LMHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

LMHA Policy

In the case of family-caused errors or program abuse, ~~the~~ LMHA will take into consideration:

1. the seriousness of the offense and the extent of participation or culpability of individual family members
2. any special circumstances surrounding the case,
3. any mitigating circumstances related to the disability of a family member.

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, ~~the~~ LMHA must promptly correct the tenant rent and any utility reimbursement prospectively.

LMHA Policy

- Increases in the tenant rent will be implemented only after the family has received 30 days notice.
- Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the LMHA or the LMHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the LMHA to use incorrect information provided by a third party.

Family Reimbursement to LMHA

LMHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The LMHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the LMHA will terminate the family's lease in accordance with the policies in Chapter 13.

LMHA Reimbursement to Family

LMHA Policy

The LMHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the LMHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the LMHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

LMHA Policy

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the LMHA Board of Commissioners, employees, contractors, or other LMHA representatives
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the LMHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

~~The~~ LMHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family, ~~the~~ LMHA may, at its discretion, impose any of the following remedies.

- ~~The~~ LMHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to LMHA).
- ~~The~~ LMHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- ~~The~~ LMHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- ~~The~~ LMHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-IL.C. LMHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of LMHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a LMHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the LMHA personnel policy.

LMHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

De Minimis Errors [24 CFR 5.609(c)(4); PIH Notice 2023-27]

PHA's must implement a policy to credit or repay a family if the family was overcharged tenant rent because of the PHA's error in income determination, regardless of the dollar amount of the error (including de minimis errors). The credit or repayment must be retroactive to the effective date of the action the error was made. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged rent.

A de minimis error is an error where LMHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

LMHA Policy

LMHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income.

If LMHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively.

Repayment to the LMHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by LMHA staff.

LMHA Policy

Families will not be required to repay LMHA in instances where LMHA miscalculated income resulting in a family being undercharged for rent.

Once LMHA becomes aware of the error and upon revised certification, the family will be provided with a 30-day notice of the increase to their rent portion.

~~LMHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff caused error, staff program abuse, or a de minimis error.~~

The family is responsible for reporting all household income/composition changes and reviewing LMHA's determination of household income, assets and expenses used in the calculation of rent, and for bringing any errors or omissions to LMHA's attention in writing within thirty (30) calendar days of receipt of the approved certification or rent change notice.

LMHA Reimbursement to Family

LMHA Policy

LMHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff caused error, staff program abuse, or a de minimis error.

The family is responsible for reporting all household income/composition changes and reviewing LMHA's determination of household income, assets and expenses used in the calculation of rent, and for bringing any errors or omissions to LMHA's attention in writing within thirty (30) calendar days of receipt of the approved certification or rent change notice.

Prohibited Activities

LMHA Policy

Any of the following will be considered evidence of program abuse by LMHA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to ~~the~~ LMHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of LMHA activities, policies, or practices
- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program
- Committing any other corrupt or criminal act in connection with any federal, state or local housing program
- Living in an LMHA-owned unit without first notifying ~~the~~ LMHA

15-II.D. CRIMINAL PROSECUTION

LMHA Policy

When ~~the~~ LMHA determines that program abuse by a family or LMHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, ~~the~~ LMHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the LMHA recovers [Notice PIH 2007-27 (HA)].

If the LMHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through ~~the~~ LMHA's grievance process.

In the event a family disputes the outstanding debt owed to LMHA or the termination reason, the family has three years from the end of participation date to request a grievance hearing to dispute the information reported. If the family fails to dispute the debt and termination information within three years from the end of participation date, the information and debt is presumed correct and no further grievance processes will be offered to the family.