

CHAPTER 11: SUBSIDIZED HOUSING

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§ 11.1 **Building Based Subsidies vs. Tenant-based Subsidies: An Overview**

11.1a **Building-Based Subsidies**

Building based subsidies are subsidies that stay with the building, as opposed to the tenant. If a tenant moves out of the building, the subsidy stays with their former apartment. Funding for these types of subsidies ultimately comes from the Department of Housing and Urban Development (HUD), but there are multiple types of building-based subsidies. The focus of this guide will be on a typical one; Philadelphia Housing Authority's Conventional Public Housing program. To locate subsidized buildings, go to PA HousingSearch.com, where you can search by different categories, including senior housing, disabled, rent range, and waitlisted properties.

For specific information on the building based subsidized housing available in other counties, go to <https://www.hud.gov/states/pennsylvania/renting/hawebsites> and click on your city or county.

11.1b **Tenant-based Subsidies (aka Tenant Based Rental Assistance or TBRA)**

Tenant based subsidies are tied to the tenant; when the tenant moves, the subsidy goes with the tenant. The largest tenant based subsidy program is the Housing Choice Voucher Program, commonly known as Section 8. However, there are numerous other tenant based subsidy programs. Some of the most popular with our clients include the Housing Opportunities for People With AIDS (HOPWA) and Shelter Plus Care. Although there are a number of different types of tenant based subsidies, the focus of this guide will be on a typical one, the Housing Choice Voucher Program.

Building Based Subsidies

§ 11.2 **Philadelphia Housing Authority (PHA) Conventional Public Housing**

PHA owns and operates over 13,400 units and offer a variety of housing to applicants. PHA-owned properties include conventional developments and scattered-site properties. For a list of all PHA conventional developments, go to <http://www.pha.phila.gov/housing/public-housing/about-developments.aspx>. PHA scattered site properties is the term used to describe individual housing units located throughout Philadelphia that are owned by PHA and which are located on "scattered" city blocks.

For specific information on the building based subsidized housing available in other counties, go to <https://www.hud.gov/states/pennsylvania/renting/hawebsites> and click on your city or county.

11.2a **Admission**

All members of the applicant's household must have low income and meet one of the below PHA preference categories. Note that other Housing Authorities in other counties may have different preference categories, which are outlined in that county's administrative plan or on their

website. For a list of all the Housing Authorities in Pennsylvania and their websites, go to <https://www.hud.gov/states/pennsylvania/renting/hawebsites>.

In addition, federal law requires that all members must be US citizens or legal resident aliens. Screening for criminal activity and drug abuse, as well as credit history, is also mandatory. HUD regulations permit denial of admission on the basis of criminal background check, eviction history, and poor credit history.

The six preference categories in Philadelphia include:

- i. Families displaced by a certified natural disaster
- ii. Families certified by Philadelphia Workforce Development Corporation as working or working ready
- iii. All other working or work ready families, elderly, or disabled families and veterans
- iv. Homeless families
- v. Displaced and need-based families
- vi. Families with low income

The waitlist for PHA public housing has been closed since the Spring of 2013. The public will be notified through advertisement on the PHA website that the waitlist is opened. Applicants on the waitlist must notify PHA of any change of address. If the applicant fails to respond to something sent by PHA, the family will be removed from the waitlist. Applicants should check in at least once a year to make sure PHA still has their name on the waitlist.

11.2b Rent Calculation

The amount of the rent for public housing tenants is based upon a percentage of the family's income. The income of every family member is used in calculating rent. Some types of income are not included. Earned income is counted by gross pay (before taxes are taken out) and not by take home pay.

Housing Authorities cannot use the following income in calculating rent:

- Earnings of children under 18;
- Deferred lump sum payments of Social Security and SSI;
- Earned income tax credits;
- Student financial assistance;
- Lump sum payments, like an inheritance or an insurance payment;
- Sporadic income, such as gifts;
- Payments for foster care;
- Reimbursements for the cost of medical care;
- The income of a live-in aide;
- Pay of a family member serving in the armed services who is exposed to hostile fire;
- Funds received under training programs;
- Property tax rebates.

To calculate the rent, first take the family's annual gross (pre-tax) income. Subtract any applicable deductions from the family's gross (pre-tax) annual income to get "adjusted annual income." There are three possible deductions from annual income:

1. \$500 per year for any family with at least one family member employed 20 hours per week or more;
2. The annual cost of Medicare, Medicaid and/or health insurance premiums for elderly or disabled households (for definitions of "elderly" and "disabled" see link PHA's admissions preference for working/work ready, elderly, disabled and veteran families); and
3. \$500.00 per year for income obtained from assets, such as interest on a bank account.

Multiply the adjusted annual income by applicable percentage (based on family size) below:

- 1-2 persons 28%
- 3-5 persons 27%
- 6 or more 26%

The figure derived by this multiplication is called "annual rent."

Divide the annual rent figure by 12 to get the "monthly rent."

11.2c Transfers

PHA will transfer families to appropriate units in the following circumstances:

1. Emergency transfers where conditions pose an imminent danger;
2. Where handicap or disability must be accommodated; (link to accessibility issues)
3. Where family composition has changed such that the unit is too small or too large;
4. Split-family transfers;
5. Relocation from an accessible unit (when the accessible unit is no longer needed);
6. To escape domestic violence;
7. Voluntary transfers after the family has lived in the unit for at least one year.

Emergency transfers are mandatory. If the family refuses the transfer offer, it will no longer be deemed an emergency. Tenants must be current on their rent to obtain a transfer. In the case of an emergency, the tenant must enter into a payment schedule if there is a rent balance. PHA will pay for the costs of moving if the transfer is required by PHA. To obtain a transfer, the tenant must request that the manager fill out the transfer request forms and forward them to the Admissions Department. If the manager refuses to complete the forms or if the Admissions Department refuses to approve the transfer, the tenant can file a grievance hearing request form.

11.2d Recertification

PHA “recertifies” most public housing tenants every two years. Tenants who have no income are recertified more frequently. Tenants receive written notice to attend a meeting with the manager or a rent reexamination clerk. The tenant will be required to bring in proof of the family’s income and composition. If they have not already been furnished, PHA will also request copies of birth certificates and Social Security cards for all family members. If tenants fail to reasonably cooperate in the recertification process, PHA can raise the rent to a ceiling amount.

After all of the necessary documentation is obtained, PHA will send out a notice about the amount of the rent and when any increase or decrease will take effect. Tenants should look at the notice closely. It will list the source and amount of income, as PHA has calculated it, for each family member. It will list any deductions from income that PHA has allowed. It will also list all of the “authorized” occupants of the unit. If the income or family composition information is not accurate, the tenant should talk to the manager. Any family member living at the unit and not listed on this notice will be deemed as “unauthorized.” It is a violation of the lease to have unauthorized people living in the unit. Any family member who is no longer living in the unit should not be listed on the lease. If the manager will not change the notice to reflect the accurate income or family composition, the tenant can file a grievance hearing request form.

Currently, PHA does not require tenants to report changes in income between recertifications. Therefore, tenants living in PHA public housing are not required to report an increase in income between re-certifications. However, if a tenant’s household income goes down between re-certifications, the tenant should promptly report this to the designated service representative and provide proof. A decline in income will usually result in lower rent, but not until it has been reported by the tenant. For a change in income, the tenant can provide a letter from the employer, pay stubs, notice of changes in welfare, Social Security, SSI, unemployment compensation and other public benefits. Changes in Family Composition Tenants must report changes in family composition (where a family member moves in or out of the unit) when they occur. Failing to do this could be grounds for termination of the lease. The changes should be reported to the manager or rent reexamination clerk as soon as possible. The tenant should also provide something to document the changes. For changes in family composition, tenants should provide something that shows that a family member has moved out or moved in. This might be a lease or a bill at the new address for a family member who has moved out. It might also be a birth certificate for a newborn child who has just moved in.

11.2e Grievance Hearing Process

Tenants have the right to a grievance hearing if they do not agree with an action or inaction by PHA. AIDS Law Project provides representation at grievance hearings. Contact us for assistance.

To request a grievance hearing, they must request a form from their property manager and submit it. Requests must always be made in writing. Tenants who are being accused of drug-related criminal activity do not have the right to a grievance hearing. The most frequent reasons to file a grievance hearing request include the Housing Authority is charging a tenant for damage for which you deny responsibility; dispute over the amount of rent being charged; the Housing Authority has not made necessary repairs or a termination or eviction notice has been received.

The first stage of the grievance hearing process is called a grievance meeting or informal conference. This is usually conducted by the housing manager of the project. You have the right,

before the hearing, to review all information the Housing Authority has in its files. You have the right to be represented by an attorney, housing advocate or any other person at this and every other stage of the hearing process. At the hearing, you should explain your grievance and present any evidence.

If the decision is not in your favor, you should file a written request for an appeal with the site management office and a copy to the main office as quickly as possible after you receive the first hearing decision. Write a short letter that includes your name, date, address, the reason for filing the grievance and a statement asking for an appeal. The next step is a formal hearing which must be scheduled promptly after the Housing Authority receives your request for an appeal. At the formal hearing, the case is heard by a hearing officer or panel of three hearing officers.

11.2f Eviction

A lease may not be terminated by an owner except for “good cause.” Good cause includes acts of material noncompliance, defined by HUD regulation as one or more substantial violations of the lease agreement or repeated minor violations of the lease including, but not limited to, failure to pay rent; failure to supply information necessary to recertify in a timely manner; housekeeping, fraud, criminal activity, or violations of the lease that affect the health, safety and welfare of other tenants, interfere with the management of the apartment building, or have an adverse financial effect on the apartment building.

If a tenant receives a notice to vacate or eviction court complaint, they should contact the Law Project as soon as possible. It is common for the following documents to be requested at the time of intake: the lease, notice to vacate, relevant rent receipts, name of housing counselor or housing service representative, and evidence of relevant repair issues.

§ 11.3 Section 202 Housing for Elderly

HUD funds housing for seniors aged 62 and older. The purpose of this program is to support independent living for low-income seniors. These properties are not meant to be assisted living facilities or nursing homes, i.e. they are not appropriate for individuals who need skilled nursing care. However, Section 202 housing is appropriate for seniors who may need assistance with activities of daily living from home health aides and other caretakers.

11.3a Admission
You cannot apply for Section 202 housing until you are 62. There are over three hundred senior subsidized buildings in Philadelphia. For a full listing of Section 202 properties in Philadelphia, contact the Philadelphia Corporation for the Aging Helpline at 215-765-9000 and ask for a free copy of the Affordable Housing booklet. In other counties, contact the local Area Agency on Aging and ask for a listing of senior subsidized housing.

Note that it is common for property managers at Section 202 properties to incorrectly advise potential applicants that they cannot apply if they currently own a house. This is not the law. If your client receives this incorrect advice, encourage them to contact the Law Project.

Finally, if the property manager determines that an applicant is ineligible for admission or the property manager is not selecting the applicant for other reasons, the property manager must promptly notify the applicant in writing of the determination, the reasons for the

determination, and the applicant's right to request a meeting to review the rejection, in accordance with HUD requirements.

11.3b Rent Calculation

Rent calculation for Section 202 housing is the same as PHA Conventional Housing (section 11.2b). Note that individuals certified as caretakers can reside in the apartment, but their income is not counted for purposes of rent calculation.

11.3c Transfers

There is no right to transfer into a different Section 202 building. Instead, tenants wishing to move must apply to each specific building they are interested in residing in. Each building keeps its own waiting list. The waiting list times vary widely, so it is usually advantageous to apply to as many buildings as possible to maximize one's options.

11.3d Recertification

Recertification for Section 202 housing is the same as PHA Conventional Housing, with the exception that it occurs every year. During the recertification process, the renter's family composition and income are verified. Tenants may request an interim recertification at any time in order to report a change in their income or family composition.

11.3e Grievance Process

There is no grievance hearing process.

11.3f Eviction

A lease may not be terminated by an owner except for "good cause." Good cause includes acts of material noncompliance, defined by HUD regulation as one or more substantial violations of the lease agreement or repeated minor violations of the lease including, but not limited to, failure to pay rent; failure to supply information necessary to recertify in a timely manner; housekeeping, fraud, criminal activity, or violations of the lease that affect the health, safety and welfare of other tenants, interfere with the management of the apartment building, or have an adverse financial effect on the apartment building.

If a tenant receives a notice to vacate or eviction court complaint, they should contact the Law Project as soon as possible. It is common for the following documents to be requested at the time of intake: the lease, notice to vacate, relevant rent receipts, name of housing counselor or housing service representative, and evidence of relevant repair issues.

§ 11.4 Section 811 Housing for Disabled

Through the Section 811 Supportive Housing for Persons with Disabilities program, HUD provides funding to develop and subsidize rental housing with the availability of supportive services for very low- and extremely low-income adults with disabilities. The Section 811 program allows persons with disabilities to live as independently as possible in the community by subsidizing rental housing opportunities which provide access to appropriate supportive services.

11.4a Admission

In order to be eligible for a Section 811 apartment, at least one adult member of the household must have a disability. This includes physical disabilities, developmental disabilities and chronic mental illness. Single persons are eligible. Households must have very low incomes, which is 50% of the Area Median Income (AMI) where they are applying to live. Applicants do not need to document if they are a United States citizen or eligible noncitizen.

If the property manager determines that an applicant is ineligible for admission or the property manager is not selecting the applicant for other reasons, the property manager must promptly notify the applicant in writing of the determination, the reasons for the determination, and the applicant's right to request a meeting to review the rejection, in accordance with HUD requirements.

11.4b Rent Calculation

Rent calculation for Section 811 housing is the same as PHA Conventional Housing.

11.4c Transfers

There is no right to transfer into a different Section 811 building. Instead, tenants wishing to move must apply to each specific building they are interested in residing in. Each building keeps its own waiting lists. The waiting list times vary widely, so it is usually advantageous to apply to as many buildings as possible to maximize one's options.

11.4d Recertification

Recertification for Section 811 housing is the same as PHA Conventional Housing, with the exception that it occurs every year. During the recertification process, the renter's family composition and income are verified. Tenants may request an interim recertification at any time in order to report a change in their income or family composition.

11.4e Grievance Process

There is no grievance hearing process.

11.4f Eviction

A lease may not be terminated by an owner except for “good cause.” Good cause includes acts of material noncompliance, defined by HUD regulation as one or more substantial violations of the lease agreement or repeated minor violations of the lease including, but not limited to, failure to pay rent; failure to supply information necessary to recertify in a timely manner; housekeeping, fraud, criminal activity, or violations of the lease that affect the health, safety and welfare of other tenants, interfere with the management of the apartment building, or have an adverse financial effect on the apartment building.

If a tenant receives a notice to vacate or eviction court complaint, they should contact the Law Project as soon as possible. It is common for the following documents to be requested at the time of intake: the lease, notice to vacate, relevant rent receipts, name of housing counselor or housing service representative, and evidence of relevant repair issues.

§ 11.5 LIHTC (Low Income Housing Tax Credit)

Rental Housing Tax Credits are a financial incentive for developers to construct or rehabilitate housing developments for rental to low-income persons. The rent is not subsidized, but it is reduced. It is possible, however, that it may be only slightly lower than market rate housing. Persons moving into tax credit units can generally have an income of no more than 60% of the area's median income. However, some counties go up to 80% of the area's median income so be certain to verify the range with the complex.

11.5a Admission

A tenant must qualify as a low-income wage earner or family (usually 50 – 60% of the Area Median Income) to qualify for entry into the LIHTC program. Once they are in the program, the tenant is not limited to the amount he or she can earn and still qualify for the program.

LIHTC owners cannot discriminate against recipients of Section 8 vouchers; they must accept Section 8 voucher tenants. There are generally no immigration restrictions for admission to LIHTC properties. However, a restriction may apply if the property receives funding from a source outside of the LIHTC program.

In Philadelphia, PAPMC or the Philadelphia Asset & Property Management Corporation is a private service affiliate that manages all Limited Partnership Low Income Housing Tax Credit (LIHTC) properties. It is a nonprofit, management entity that is separate from PHA. Each site or building maintains its own waiting list.

11.5b Rent Calculation

LIHTC rents are not based on a tenant's income. Instead, rent is set by the use restriction tied to the unit. This means that a tenant's rent will not change even if the family's income significantly increases or decreases. In addition, LIHTC rents are calculated to include a utility allowance for tenant-paid utilities. LIHTC rents are set at 30% of the income of the AMI tied to the unit.

The calculation for rent for LIHTC rentals can be complex. It is recommended that if your client has questions, they should request a copy of their most recent rent recertification from their property manager and then contact the Law Project with their questions.

11.5c Transfers

There is no right to transfer into a different Low Income Housing Tax Credit building. Instead, tenants wishing to move must apply to each specific building they are interested in residing in. Each building keeps its own waiting lists. The waiting list times vary widely, so it is usually advantageous to apply to as many buildings as possible to maximize one's options.

11.5d Recertification

Recertification for LIHTC housing is the same as PHA Conventional Housing, with the exception that it occurs every year.

During the recertification process, the renter's family composition and income are verified. Tenants may request an interim recertification at any time in order to report a change in their income or family composition.

11.5e Grievance Process

There is no grievance hearing process.

11.5f Eviction

A lease may not be terminated by an owner except for "good cause." Good cause includes acts of material noncompliance, defined by HUD regulation as one or more substantial violations of the lease agreement or repeated minor violations of the lease including, but not limited to, failure to pay rent; failure to supply information necessary to recertify in a timely manner; housekeeping, fraud, criminal activity, or violations of the lease that affect the health, safety and welfare of other tenants, interfere with the management of the apartment building, or have an adverse financial effect on the apartment building.

If a tenant receives a notice to vacate or eviction court complaint, they should contact the Law Project as soon as possible. It is common for the following documents to be requested at the time of intake: the lease, notice to vacate, relevant rent receipts, name of housing counselor or housing service representative, and evidence of relevant repair issues.

Tenant Based Subsidies also known as Tenant Based Rental Assistance (TBRA)**§ 11.6 The Housing Choice Voucher Program (aka Section 8)**

The Housing Choice Voucher (HCV) Program is a rental assistance program. HCV residents rent directly from private landlords and their rental payments are subsidized through the voucher program. Low-income tenants may qualify for a rent subsidy and should work with a medical case manager to assess eligibility. To request a medical case manager, contact the Health Information Helpline at 215-985-2437, M- F, 8- 5:30 p.m. Low-income housing is also available through the Philadelphia Housing Authority <http://www.pha.phila.gov/housing/admissions.aspx>, although the waiting list for most housing programs has been closed for several years.

11.6a Admission

Housing authorities in PA are operated at the county or local level. Most housing authorities participate in the Housing Choice Voucher Program. Applicants must be income eligible, meaning their income must be at least below 50% of the Area Median Income, though preferences may be given for applicants below 30% of the Area Median Income.

The waitlist for the Section 8 Housing Choice Voucher program in Philadelphia is **closed**. The waitlist was open for 3 weeks in March 2010 and has not been open since. In other counties, contact your local Housing Authority for information about admission. For more information on the admission preferences for a particular county, search online for your county's Administrative Plan for the Housing Choice Voucher Program.

Housing Authorities must provide an informal administrative review process for applicants who are denied assistance. Families must be given a notice of a decision denying assistance, which includes an explanation of why assistance was denied and the applicant's right to request an informal review of the decision.

To locate private landlords who advertise that they are willing to rent to Section 8 voucher holders, go to <https://www.gosection8.com/>.

In three counties in Pennsylvania (Philadelphia, Pittsburgh and Borough of State College) Section 8 holders are protected by source of income laws, which make it illegal for landlords to discriminate against prospective tenants based on their source of income. Unfortunately, in the remaining counties it is not against the law for landlords to refuse to rent from someone because they would be paying rent with a Section 8 voucher.

11.6b Rent Calculation

Rental payments are divided into two separate payments – one from the Housing Authority called the Housing Assistance Payment (HAP) and one from the tenant. These two payments equal the “contract rent.” It is common for Housing Choice Voucher landlord to attempt to get the tenant to agree to pay additional rent “on the side” but this violates program rules and could result in the termination of the voucher.

The tenant's share of the rent is the difference between the Contract rent and the Housing Authority's Housing Assistance Payment. The amount that the tenant must contribute will be the greater of the following:

- 30 percent of their monthly adjusted income
- 10 percent of their monthly gross income
- The welfare rent, or
- The minimum rent amount set by the PHA.

11.6c Transfers

A. Transfers within the same City

There are different categories of transfers for Section 8 voucher holders who want to move to a different HCV unit within the same city. These categories include PHA Initiated Transfers and Tenant-Initiated Transfers.

PHA-initiated transfers fall into two categories: occupancy standard transfers and accessible unit transfers. PHA-initiated transfers are mandatory. Assistance will be terminated for households who refuse PHA-initiated transfers without good cause.

Tenant initiated transfers are voluntary, meaning that the transfer request is voluntarily made by the tenant. The following are the reasons for tenant initiated transfers:

- Personal safety/VAWA/other emergency
- Reasonable accommodation

A family that requests a transfer and refuses a unit without good cause will be removed from the transfer waiting list and may not reapply for a transfer for a period of one year from the date of unit refusal.

B. Transfers to a Different City (ie Portability)

The Housing Choice Voucher (HCV) program refers to the process through which the family can transfer their rental subsidy and move to a location outside the jurisdiction of the Public Housing Authority (PHA) that first gave them the voucher when they were selected for the program as "portability." Initial PHA's are the PHA that first gave the voucher to the individual when they were selected for the program. Receiving PHA's are the agency that will administer assistance in the area to which the individual moves. To port to another Housing Authority, you will first need an active shopping voucher, whether the voucher is your first voucher in the program or a transfer voucher.

Note that each Housing Authority may have different rules, policies and deadlines regarding portability, so it is important to contact the Housing Authority in your country for their portability rules and policies.

In Philadelphia, a Section 8 voucher holder is only eligible for portability if they fall into one of the following categories.

Employment: A member of the participant family has been offered and accepted an employment opportunity outside of PHA's jurisdiction. The employment opportunity must be available within 60 days from the date of the port out request.

Education: A member of the participant family has been admitted to an academic program located outside of PHA's jurisdiction.

Safety: The family seeks to move out of PHA's jurisdiction in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence or stalking, and who reasonably believes that he or she is imminently threatened by harm from further violence if he or she remains in PHA's jurisdiction.

Medical/Disability: A family member has a documented medical need or disability that requires treatment or other medical assistance outside of PHA's jurisdiction.

11.6d Recertification

All Section 8 tenants must recertify their income and family composition on time each year to remain eligible to receive Section 8 assistance. PHA requires re-certifications for voucher holders every two years; Elderly or Disabled households on a fixed income are recertified every three years. If the income or family composition of a Section 8 voucher holder changes, they must report it to their Housing Authority within 10 days.

Tenants receive a recertification packet a few months before their next recertification date. The tenant will be required to bring in proof of the family's income and composition. If they have not already been furnished, PHA will also request copies of birth certificates and Social Security cards for all family members. Any documents used for verification must be dated within 60 calendar days of the date you submit them to PHA. The documents must not be damaged, altered or in any way illegible. If tenants fail to reasonably cooperate in the recertification process, PHA can suspend the HAP payment and require the tenant to pay the full contract rent.

After all of the necessary documentation is obtained, PHA will send out a notice about the amount of the rent and when any increase or decrease will take effect. Tenants should look at the notice closely. It will list the source and amount of income, as PHA has calculated it, for each family member. It will list any deductions from income that PHA has allowed. It will also list all of the "authorized" occupants of the unit. If the income or family composition information is not accurate, the tenant should talk to the manager. Any family member living at the unit and not listed on this notice will be deemed as "unauthorized." It is a violation of the lease to have unauthorized people living in the unit. Any family member who is no longer living in the unit should not be listed on the lease. If the manager will not change the notice to reflect the accurate income or family composition, the tenant can file a grievance hearing request form.

11.6e Grievance Process

Tenants have the right to a grievance hearing if they do not agree with an action or inaction by the Housing Authority that issues their Section 8 voucher. To request a grievance hearing, they must request a form from their property manager and submit it. Requests must always be made in writing. Tenants being accused of drug-related criminal activity do not have the right to a grievance hearing. The most frequent reasons to file a grievance hearing request include the Housing Authority charging a tenant for damage for which you deny responsibility; a dispute over the amount of rent being charged; the Housing Authority has not made necessary repairs or a termination or eviction notice has been received.

The first stage of the grievance hearing process is called a grievance meeting or informal conference. This is usually conducted by the housing manager of the project. You have the right, before the hearing, to review all information the Housing Authority has in its files. You have the right to be represented by an attorney, housing advocate or any other person at this and every other stage of the hearing process. At the hearing, you should explain your grievance and present any evidence.

If the decision is not in your favor, you should file a written request for an appeal with the site management office and a copy to the main office as quickly as possible after you receive the first hearing decision. Write a short letter that includes your name, date, address, the reason for filing the grievance and a statement asking for an appeal. The next step is a formal hearing which must be scheduled promptly after the Housing Authority receives your request for an appeal.

At the formal hearing, the case is heard by a hearing officer or panel of three hearing officers. By this time in the hearing process, you should be represented by an attorney. Your client should contact the Law Project and complete an intake.

11.6f Termination of Section 8 Voucher / Eviction

A Section 8 tenant cannot be evicted, nor can a Section 8 voucher holder be terminated by a Housing Authority, unless there is “good cause.” Good cause includes acts of material noncompliance, defined by HUD regulation as one or more substantial violations of the lease agreement or repeated minor violations of the lease including, but not limited to, failure to pay rent; failure to supply information necessary to recertify in a timely manner; housekeeping, fraud, criminal activity, or violations of the lease that affect the health, safety and welfare of other tenants, interfere with the management of the apartment building, or have an adverse financial effect on the apartment building.

There are two common exceptions to the “good cause” rule for Section 8 terminations / eviction. It is possible for someone to have their Section 8 voucher terminated if their income increases to the point where they are responsible for the entire rent and the Housing Authority does not make any rent payment. In addition, it is possible for a landlord to choose to not renew the lease after the initial term, which is typically two years, has ended.

If a tenant receives a notice of termination of their voucher, notice to vacate or an eviction court complaint, they should contact the Law Project as soon as possible. It is common for the following documents to be requested at the time of intake: the lease, notice of

termination, relevant rent receipts, name of housing counselor or housing service representative, and evidence of relevant repair issues.

Finally, please note that Section 8 voucher holders whose landlords file for eviction are at very high risk for having their vouchers subsequently terminated, as the Housing Authority is permitted to terminate a voucher if a tenant “loses” an eviction court case. It is especially important for the tenant to have legal counsel in order to have the best opportunity to prevent this outcome.

§ 11.7 HOPWA (Housing Opportunities for People With AIDS)

The Housing Opportunities for Persons With AIDS (HOPWA) Program is the only Federal program dedicated to the housing needs of people living with HIV/AIDS. Participants must meet with their HOPWA housing case managers on a regular basis, and usually are required to submit documentation they have paid rent and utilities to their housing case manager.

11.7a Admission

In order to qualify for the HOPWA subsidy, you must have been diagnosed with HIV/AIDS and meet certain income standards. Your local administering agency will determine if you meet the income eligibility standards for the program; typically your income must be below 60% of the Area Median Income, though in some case it can be below 80% of the Area Median Income if the household is determined to be at greater risk.

The administering agency or agencies in your area are typically, but not always, a nonprofit that provides services to individuals living with HIV or AIDS. In Philadelphia, these agencies include Mazzoni Center, Action Wellness, and Congresso, among other organizations.

Ask your medical case manager to assist you with an application for HOPWA housing. The application process differs by county; in some counties, the Ryan White funded local government office overseeing HIV related activities handles the applications, while in other counties the city agency handling homelessness processes HOPWA applications.

11.7b Rent Calculation

Rental payments are divided into two separate payments – one from the administering agent called the Housing Assistance Payment (HAP) and one from the tenant. These two payments equal the “contract rent.”

The tenant’s share of the rent is the difference between the Contract rent and the Housing Authority’s Housing Assistance Payment. The amount that the tenant must contribute will be the greater of the following:

- 30 percent of their monthly adjusted income
- 10 percent of their monthly gross income
- The portion of any welfare assistance payments specifically designated for housing costs

11.7c Transfers

Transfers must be approved in writing by the housing case manager. Approval is typically not given unless the person will have completed their lease term or given the notice required under the lease. The most common exceptions are for individuals whose reasonable accommodation request has been granted, or for families whose household size has changed. Moving to a new unit without permission of the housing case manager is grounds for termination from the program.

11.7d Recertification

Recertification for HOPWA recipients occurs every year. During the recertification process, the renter's family composition and income are verified. Tenants may request an interim recertification at any time in order to report a change in their income or family composition. The administering agency for the subsidy sets guidelines for when a participant must report changes in their income, so it is important to check with your agency in order to be in compliance.

11.7e Grievance Process

There is a grievance hearing process for participants who face proposed termination from the HOPWA program. However, there is no grievance hearing process for HOPWA participants who face eviction by their landlord.

For tenants who face proposed termination of their HOPWA subsidy, they have the right to appeal the proposed termination with the agency that administers their HOPWA subsidy. The first level of appeal is with their housing case manager; then the supervisor of their housing case manager, and finally the director of agency. If the agency decides against them, the individual can appeal to the funding agency of the organization that administers the subsidy. In Philadelphia, this agency is the Division of Housing and Community Development (DHCD). Depending on the county, there may be a final level of appeal, to a higher funding agency. In Philadelphia, that agency is the Office of Homeless Services. The decision at the last level of appeal is final.

11.7f Termination of HOPWA Subsidy / Eviction

A lease may not be terminated by an owner except for "good cause." Good cause includes acts of material noncompliance, defined by HUD regulation as one or more substantial violations of the lease agreement or repeated minor violations of the lease including, but not limited to, failure to pay rent; failure to supply information necessary to recertify in a timely manner; housekeeping, fraud, criminal activity, or violations of the lease that affect the health, safety and welfare of other tenants, interfere with the management of the apartment building, or have an adverse financial effect on the apartment building.

If a tenant receives a notice to vacate or eviction court complaint, they should contact the Law Project as soon as possible. It is common for the following documents to be requested at the time of intake: the lease, notice to vacate, notice of termination, relevant rent receipts, name of housing counselor or housing service representative, and evidence of relevant repair issues.

Termination of the HOPWA subsidy can be proposed for any violation of the administering agency's written guidelines. At the time the individual is admitted to the HOPWA program, they sign receipt of the agency guidelines, and it is important to keep a copy and be familiar with the rules. Examples of common reasons for termination include failure to submit required documentation that rent or utilities are paid; failure to meet with your housing case manager; failure to pay rent or utilities, and having your landlord file an eviction complaint against you.

If your client is facing eviction or termination of their HOPWA subsidy, recommend that they contact the AIDS Law Project immediately to do an intake.