

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 887, 982, 984

[Docket No. FR-4054-C-04]

RIN 2577-AB63

Section 8 Certificate and Voucher Programs Conforming Rule; Technical Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; technical amendment.

SUMMARY: This document makes technical amendments to the final rule that was published April 30, 1998 (63 FR 23826), which combined and conformed program regulations for the Section 8 certificate and voucher programs.

EFFECTIVE DATE: April 15, 1999.

FOR FURTHER INFORMATION CONTACT: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4204, 451 7th Street, SW, Washington, DC 20410. Her telephone numbers are (202) 708-2841 (voice) and (202) 708-0850 (TTY). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Need for Amendments

The Section 8 Certificate and Vouchers Programs Conforming Rule, published on April 30, 1998 (63 FR 23826), was corrected by a document published on June 10, 1998 (63 FR 31624). This document corrects additional errors in the final rule and makes additional clarifying technical amendments to parts 887 and 984, which inadvertently were not included in that rulemaking. This technical final rule does the following:

(1) Removes remaining provisions of part 887, the former rule for the Section 8 tenant-based voucher program. As intended, program rules for the voucher program are now contained in the conforming rule at part 982;

(2) Corrects formulas used to prorate assistance for a "mixed family" (that includes persons without citizenship or eligible immigration status) (24 CFR § 5.520). The final rule did not specify the procedure to prorate assistance for an over-FMR tenancy;

(3) Corrects calculation of the housing assistance payment for rental of a manufactured home space under a voucher or over-FMR tenancy. (The prior correction document corrected an

error in calculation of the subsidy for a manufactured home space regular tenancy.) The rule is revised to specify that the maximum subsidy is rent to owner for the manufactured home space (§ 982.623(c)(2) and (c)(3)). This replaces the prior erroneous reference to "gross rent" (including the allowance for tenant-paid utilities);

(4) Inserts conforming references to requirements for certain special housing types, in the regulations that specify types of housing that are ineligible for assistance under the certificate and voucher programs (§ 982.352(a)(6));

(5) Clarifies confusion concerning the relationship between separate regulatory provisions concerning adjustments in subsidy payment upon a regular or interim reexamination of family income and composition. Sections 982.516(d)(2) and 982.516(e) are revised by eliminating reference to adjustments in the "family unit size" at a regular or interim reexamination. As so corrected, the rule provides that an HA must make appropriate adjustments in the housing assistance payment at the effective date of a regular or interim reexamination. Furthermore, § 982.516(d)(2) is revised to cross-reference the separate regulatory provisions that specify how housing assistance payments are calculated (§ 982.505 for a voucher or over-FMR tenancy; § 982.507 for a regular certificate tenancy). In addition, § 982.505(d)(5) is restated to clarify, as originally intended, that after a change in family unit size, the new family unit size is used to compute the payment standard at the next regular reexamination;

(6) Restates a technical provision that specifies when an annual adjustment is effective (§ 982.509(b)(5)(i)). This change is necessary to clarify when the annual adjustment is effective for a HAP contract with a mid-month anniversary; and

(7) Updates cross-references in the regulation for the Family Self-Sufficiency Program (§ 984.305(b)(1)).

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 887

Grant programs—housing and community development, Rent

subsidies, Reporting and recordkeeping requirements.

24 CFR Part 982

Grant programs—housing and community development, Housing, Low- and moderate-income housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 984

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Catalog

The Catalog of Federal Domestic Assistance numbers for the programs that are the subject of this document are 14.855 and 14.857.

For the reasons stated above, parts 5, 887, 982, and 984 of title 24 of the Code of Federal Regulations are amended as follows:

PART 5—GENERAL HUD PROGRAM

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

Subpart E—Restrictions on Assistance to Noncitizens

2. In § 5.520 paragraphs (c)(1) introductory text, (c)(1)(ii), (c)(2) introductory text, (c)(2)(i) and (c)(2)(iv) are revised to read as follows:

§ 5.520 Proration of assistance.

* * * * *

(c) *Method of prorating assistance for Section 8 covered programs.*

(1) *Section 8 assistance other than assistance provided for a tenancy under the Section 8 Rental Voucher Program or for an over-FMR tenancy in the Section 8 Rental Certificate Program.* For Section 8 assistance other than assistance for a tenancy under the voucher program or an over-FMR tenancy under the certificate program, the PHA must prorate the family's assistance as follows:

(i) * * *

(ii) *Step 2. Determine total tenant payment in accordance with section 5.613(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)*

* * * * *

(2) *Assistance for a Section 8 voucher tenancy or over-FMR tenancy.* For a tenancy under the voucher program or for an over-FMR tenancy under the certificate program, the PHA must

prorate the family's assistance as follows:

(i) *Step 1.* Determine the amount of the pre-proration housing assistance payment. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

* * * * *

(iv) *No effect on rent to owner.* Proration of the housing assistance payment does not affect rent to owner. The family must pay the portion of rent to owner not covered by the prorated housing assistance payment.

* * * * *

PART 887—HOUSING VOUCHERS [REMOVED AND RESERVED]

3. Part 887 is removed and reserved.

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNITED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

4. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

5. Section 982.352(a)(6) is revised to read as follows:

§ 982.352 Eligible housing.

(a) * * *

(6) A unit occupied by its owner or by a person with any interest in the dwelling unit. (However, assistance may be provided for a family residing in a cooperative. Assistance may be provided to the owner of a manufactured home leasing a manufactured home space. In the case of shared housing, an owner unrelated to the assisted family may reside in the unit, but assistance may not be paid on behalf of the resident owner. For provisions on cooperative housing, manufactured home space rental, and shared housing, see part 982, subpart M.); and

* * * * *

6. In § 982.505, paragraph (d)(5) is revised, to read as follows:

§ 982.505 Voucher tenancy or over-FMR tenancy: How to calculate housing assistance payment.

* * * * *

(d) * * *

(5) At the next regular reexamination following a change in family size or composition during the HAP contract term, and for any examination thereafter during the term:

(i) Paragraph (d)(4)(i) does not apply, and

(ii) If there is a change in family unit size resulting from such change in family size or composition, the new family unit size must be used to compute the payment standard.

7. In § 982.509, paragraph (b)(5)(i) is revised, to read as follows:

§ 982.509 Regular tenancy: Annual adjustment of rent to owner.

* * * * *

(b) * * *

(5) * * *

(i) The first day of the first month commencing on or after the contract anniversary date; or

* * * * *

8. In § 982.516, paragraph (e) is amended by removing from the last sentence the phrase "and family unit size", and paragraph (d)(2) is revised, to read as follows:

§ 982.516 Family income and composition: Regular and interim examinations.

* * * * *

(d) * * *

(2) At the effective date of a regular or interim reexamination, the HA must make appropriate adjustments in the housing assistance payment. (For a voucher tenancy or over-FMR tenancy, the housing assistance payment shall be calculated in accordance with § 982.505. For a regular tenancy, the housing assistance payment shall be calculated in accordance with § 982.507.)

* * * * *

§ 982.623 [Amended]

9. Section 982.623 is amended as follows:

a. In the first sentence of paragraph (c)(2)(ii), the phrase "monthly gross rent" is removed and the phrase "rent to owner" is inserted in its place.

b. In paragraph (c)(3)(ii), the phrase "monthly gross rent" is removed and the phrase "rent to owner" is added in its place.

PART 984—SECTION 8 AND PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

10. The authority citation for part 984 continues to read as follows:

Authority: 42 U.S.C. 1437f, 1437u, and 3535(d).

§ 984.304 [Amended]

11. In § 984.304, paragraph (a)(2) is amended as follows:

a. In the first sentence, by removing "in accordance with the regulations set forth in 24 CFR parts 813 and 882." and inserting "in accordance with the regulations set forth in subpart F of 24 CFR part 5, and subpart K of 24 CFR part 982."

b. In the second sentence, by removing "in accordance with the regulations set forth in 24 CFR part 887." and inserting "in accordance with the regulations set forth in 24 CFR § 982.505."

§ 984.305 [Amended]

12. In section 984.305, paragraph (b)(1) is amended as follows:

a. By removing "part 913" and inserting "subpart F of 24 CFR part 5".

b. By removing "part 813" and inserting "subpart F of 24 CFR part 5".

Dated: March 2, 1999.

Andrew Cuomo,

Secretary.

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