



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

Special Attention of:

Directors of HUD Regional and Field
Offices of Public Housing; PIH Program
Center Coordinators; Public Housing Agencies
Administering Housing Choice Voucher Programs

Notice PIH 2008 – 43 (HA)

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Cross References: HUD Notice PIH 2004-12
HUD Notice PIH 2007-5

Subject: Housing Choice Voucher Portability Procedures and Corrective Actions

- 1. Purpose.** This notice provides guidance on public housing agency (PHA) administrative responsibilities related to portability moves. In addition to reviewing the administrative responsibilities of the initial PHA and the receiving PHA, the notice describes the conditions that must exist in order for a PHA to deny a family's request under the portability procedures as a result of insufficient funding in accordance with 24 CFR part 982.314(e)(1). This notice also sets forth the penalties that will be imposed on PHAs that deny family requests to move on the basis of §982.314(e)(1) if the conditions necessary to deny the move on the basis of insufficient funding do not exist.

This Notice updates the portability guidance originally issued in HUD Notice PIH 2004-12 and supersedes that notice.

- 2. Effective Date.** This notice is effective upon publication.
- 3. Background.** One of the key features of the housing choice voucher program is the mobility of the assistance. Section 8(r) of the United States Housing Act of 1937 provides that housing choice voucher participants may choose a unit that meets program requirements anywhere in the United States, provided a PHA administering the tenant-based program has jurisdiction over the area in which the unit is located. The term "portability" refers to the process of leasing¹ a dwelling unit with tenant-based housing voucher assistance outside of the jurisdiction of the PHA that initially issues the family its voucher (the initial PHA). Program regulations covering where a family may move and the responsibilities of the initial PHA and the receiving PHA (the PHA with jurisdiction over the area to which the family moves) are found at §982.353 through §982.355.

The receiving PHA may choose to absorb the family into the receiving PHA's program or bill the initial PHA. The program regulations at §982.355(e) provide that the receiving PHA may

¹ The term portability also refers to cases where families participating in the voucher homeownership option purchase units outside of the initial PHA's jurisdiction. See §982.636.

bill the initial PHA for housing assistance payments (HAP) and administrative fees to cover assistance for a portable family. The regulations require that the initial PHA must promptly reimburse the receiving PHA for the full amount of the HAP payments. The initial PHA must also provide the receiving PHA with 80 percent of the initial PHA on-going administrative fee² (or some other negotiated amount if both PHAs agree) for each unit month that the family receives assistance under the voucher program from the receiving PHA.

The regulations further provide that the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required billing forms. The initial PHA and the receiving PHA must also comply with billing and payment deadlines under the financial procedures. HUD may assess penalties against an initial PHA or a receiving PHA for violations, as determined by HUD, of the portability requirements.

HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA annual contributions contract (ACC) (see §982.355(f)(1)). HUD will continue to exercise this authority to transfer units from the initial PHA to the receiving PHA in cases where the initial PHA fails to comply with the billing procedures described below. Initial PHAs may also voluntarily request that HUD transfer units from their ACC to the receiving PHA ACC in order to eliminate portability billing arrangements.

4. Denying Family Requests to Move under the Portability Procedures. The housing choice voucher regulations at §982.353 provide that voucher holders (with the exception of non-resident applicants) and participating families have the right to receive tenant-based voucher assistance in accordance with program requirements to lease a unit outside of the initial PHA jurisdiction. The family may lease a unit anywhere in the United States, provided the area is in the jurisdiction of a PHA with a tenant-based voucher program. A PHA may only deny a family's request to move under portability if it has grounds to do so under the program regulations, which are as follows:

- 1) The PHA has grounds to deny the move because of the family's action or failure to act as described in §982.552 or §932.553.
- 2) The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see §982.353(c)).
- 3) The family is an applicant and is not income-eligible (see §982.353(d)(1)) in the area in which they wish to initially lease a unit.
- 4) The PHA has established policies on the timing and frequency of moves in accordance with §982.314(c)(2), and the requested move does not comply with those policies.³

² For Calendar Year 2008, administrative fees for portable vouchers are based on 80 percent of the Column B posted rate for the PHA that is being billed. PHAs apply the pro-ration factor determined by HUD to the 80 percent of the Column B posted rate. The posted administrative fees are found at www.hud.gov/offices/pih/programs/hcv/adminfees2008.cfm. These pro-rated fee amounts may be used for the entire calendar year to avoid the need for PHAs to re-calculate their portable fees each quarter. Information on administrative fees for portability billing purposes for subsequent calendar years will be provided in the HUD guidance on administrative fees for that particular calendar year.

- 5) The PHA does not have sufficient funding for continued assistance to support the move in accordance with §982.314(e)(1).

In addition, the voucher regulations at §982.353(a) further provide that the initial PHA must deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as previously noted in HUD Notice PIH 2007-5, the Violence Against Women and Justice Department Reauthorization Act 2005 (VAWA 2005) amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease under the portability procedures if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit 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 believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

If the circumstances described above exist, the PHA may allow a family to move under portability procedures if the only basis for the denial is that the family is violating the lease agreement. The PHA may request that the family provide the HUD-approved certification form (form HUD-50066), or other acceptable documentation in order to verify the family's claim that the request to move is prompted by incidences of abuse in the unit.

Denying Portability Moves Due to Insufficient Funding

A PHA may only deny a request to move to a higher cost area in accordance with §982.314(e)(1) if the PHA would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments. A "higher cost area" is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or "more generous" subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). Before denying the family's request to move due to insufficient funding, the initial PHA must contact the receiving PHA and confirm that the receiving PHA will not absorb the family. If the receiving PHA is willing to absorb the family, there are no grounds to deny the portability move under §982.314(e)(1).

A PHA **may not** deny a requested move due to insufficient funding under §982.314(e)(1) simply because the family wishes to move to a higher cost area. The PHA must be able to support and document that the condition described in the preceding paragraph exists in order to deny the family's request to move. In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, the PHA may make reasonable estimates to factor in conditions such as pending rent increases and the attrition rate for families leaving the program. However, a PHA may not include projected costs for vouchers that have been issued to families from the waiting list but not yet leased as part of this analysis. Vouchers that have been issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and the PHA is legally obligated to make HAP payments. Additional

³ The regulations at §982.314(c)(2) provide that the PHA may establish policies that prohibit any move by the family during the initial lease term, and policies that prohibit more than one move by the family during any one year period.

guidance to assist a PHA in determining if sufficient funding is available can be found at <http://www.hud.gov/offices/pih/programs/hcv>

A PHA **may not** deny a family's request to move to a higher cost area because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available (UMA) to do so. If the PHA denies a family's request to move, it may not subsequently admit any additional families to its voucher program until the PHA has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its move to the higher cost area.

If the PHA denies the family's request to move under §982.314(e)(1), it must promptly notify the family (assuming the family is still a participant in the PHA's voucher program) once there is sufficient funding available to support the family's request to move. The PHA must promptly process the family's request to move if the family indicates it still wishes to move at that time.

HUD has posted a spreadsheet that may be used by a PHA to determine if sufficient funding is available to support to move is posted on the HUD Housing Choice Voucher Program website. The address is: <http://www.hud.gov/offices/pih/programs/hcv>. This spreadsheet is an example of one method of determining if sufficient funding is available and a PHA is not required to use it when making its determination to deny a move under §982.314(e)(1). However, in any case where the PHAs denies a family's request to move in accordance with §982.314(e)(1), the PHA must be able to demonstrate how it determined that sufficient funding was unavailable if the PHA denies the family's request to move.

Penalties for PHAs that improperly deny requests to move on the basis of insufficient funding

In general, if HUD determines that a PHA has improperly denied a family's request to move due to insufficient funding (e.g., sufficient funding was in fact available at the time of the family request to support the move), HUD will impose a sanction on the PHA, which may include a reduction in the PHA's administrative fee⁴ of up to 5 percent for the two quarters following the quarter that HUD identified the improper denial, taking into consideration the circumstances of the particular case. The Office of Public Housing in the HUD Area Office with jurisdiction over the PHA will inform the PHA by letter and will send a copy to the HUD Financial Management Center (FMC) and the Financial Management Division (FMD) to effectuate the penalty.

This general policy on the policy for improperly denying the family's request to move under §982.314(e)(1) does not in any way restrict HUD from exercising additional remedial actions or imposing sanctions in the event the PHA is denying requests by families to move under portability in violation of program regulations.

5. **Initial PHA Responsibilities: Contacting the Receiving PHA.** When a family wishes to move under portability, the family must inform the initial PHA of the area to which the family wishes to move. In the case where the family is not currently a program participant, the initial PHA must determine if the family is income eligible in the area to which the family wishes to move. If the family is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family they may not move to the area in question and receive voucher

⁴ The reduction would be applied to PHA's prorated administrative fee (assuming that a pro-ration factor applies to the PHA administrative fees during the two quarters the penalty is imposed by HUD).

assistance. Income eligibility is not re-determined when a participant family (a family that is already under a HAP contract) exercises portability.

The initial PHA must contact the receiving PHA on the family's behalf. The initial PHA must promptly notify the receiving PHA to expect the incoming family (see section §982.355(c)(2)). This means the initial PHA contacts the receiving PHA on the family's behalf, typically by telephone, fax, or email. Simply referring the family to HUD or to a website for information on the receiving PHA's address does not fulfill the responsibilities of the initial PHA under the program regulations. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA (e.g., the name and telephone number of the staff person responsible for working with incoming portability families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA). The Form HUD-52665 contains a line that the initial PHA uses to identify the receiving PHA to which the initial PHA is referring the family.

6. **Initial PHA Responsibilities: Part I of the Form HUD-52665.** The initial PHA completes Part I of the Form HUD-52665 and mails or faxes it to the receiving PHA, along with a copy of the family's voucher issued by the initial PHA, a current copy of Form HUD-50058, and copies of the income verification backing up the form. (Note that in the case of an applicant, the initial PHA has not completed the HUD-50058 and submitted the information to HUD because the family is not yet a new admission. However, the PHA must provide the family information and income information to the receiving PHA in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.)

Part I of the form provides the date by which the initial billing notice provided by the receiving PHA must be received by the initial PHA. The initial billing submission must be received by the initial PHA no later than 60 days following the expiration date of the family voucher issued by the initial PHA. If the initial PHA has not received a billing notice by the deadline, the initial PHA must contact the receiving PHA to determine the status of the family if the initial PHA intends not to honor a late billing submission.

If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may inform the receiving PHA that they will not accept any subsequent billing on behalf of the family. Once the initial PHA has so notified the receiving PHA, the initial PHA is not required to honor any billing notice received after the billing deadline. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it simply returns the late Form HUD-52665 to the receiving PHA, and the receiving PHA must absorb the family.

If the receiving PHA reports that the family is under HAP contract and it cannot absorb the family when the initial PHA contacts the receiving PHA to determine the status of the family, the initial PHA is required to accept the subsequent late billing. The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may take action to address the receiving PHA's failure to do so, which may include reducing the receiving PHA's administrative fee. Additionally, HUD may subsequently transfer units from the receiving PHA to the initial PHA when it is feasible, since the initial PHA was required to accept the late billing.

7. **Receiving PHA Responsibilities: Processing Responsibilities.** The receiving PHA must promptly issue a voucher to the family for its search in the receiving PHA jurisdiction, the term

of which may not expire before the expiration date of the initial PHA voucher. The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA voucher, either when it initially issues its own voucher or by subsequently extending its own voucher's term. However, if the receiving PHA provides the family with search time beyond the expiration date of the initial PHA's voucher, it must inform the initial PHA of the extension and should bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a Request for Lease Approval, execute a HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) so that it will be received by the initial PHA by the deadline date.

A receiving PHA should not process the family if the initial PHA voucher has already expired when it receives the paperwork from the initial PHA, but should refer the family back to the initial PHA. The initial PHA would have to decide to extend the term of the initial PHA voucher (and the billing deadline) before the receiving PHA would process the portability move in such an instance.

HUD expects the receiving PHA to process the family's paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures. The receiving PHA does not re-determine eligibility for a portable family that was already receiving voucher assistance and may not unduly delay the family's housing search in issuing the voucher.

Should the receiving PHA wish to conduct its own background checks and/or conduct a new income reexamination on a family that has already received housing assistance payments under the initial PHA, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed. However, the PHA may take subsequent action (e.g., recalculating the HAP payment based on updated income information; terminating the family's participation in the program due to criminal background or failing to disclose necessary information) against the family based on the results. In the case of an applicant family, the receiving PHA may delay issuing or otherwise delay approval of a unit only if the re-certification is necessary to determine income eligibility.

In any event, the PHA may always delay approval of the unit or issuance of the voucher if the family refuses to comply with the receiving PHA procedures. In any case where the PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with sections §982.554 and §982.555.

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA, but instead wishes to return to the initial PHA or wishes to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extensions of search time provided by the receiving PHA voucher are only valid for the family's search in the receiving PHA jurisdiction. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

The receiving PHA may absorb the family into its own program once the HAP contract is executed on behalf of the family by the receiving PHA, assuming it has funding available under its ACC to do so and such a decision will not result in over-leasing for the Calendar Year. The receiving PHA may also absorb a portable family assisted through a billing arrangement by terminating the billing arrangement with the initial PHA. In such a case, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family.

A PHA does not technically “absorb” a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA jurisdiction. PHAs may not engage in sham or fake portability paperwork exercises in an attempt to address their utilization or leasing problems. If the family is not placed under HAP contract in the receiving PHA jurisdiction, the receiving PHA cannot absorb the family.

8. **Receiving PHA Responsibilities: Part II of Form HUD-52665.** The receiving PHA must promptly inform the initial PHA if it intends to absorb or bill. The receiving PHA sends Part II of Form HUD-52665 to the initial PHA. If the receiving PHA decides to bill the initial PHA, the receiving PHA not only completes Part II of the Form HUD-52665, but also attaches a copy of the new Form HUD-50058 before returning it to the initial PHA. In addition to the initial billing deadline discussed above, the instructions of the Form HUD-52665 provide that the receiving PHA must complete and mail (which may include electronic mail or fax) Part II of the form within 10 working days from the date a HAP contract is executed on behalf of a family.

The initial PHA is generally not obligated to honor initial billings that are postmarked, emailed, or faxed more than 10 working days after the date the HAP contract is executed. (Note that it is the date the HAP contract is executed, not the effective date of the HAP contract, which is at issue. For instance, if a PHA executes a HAP contract within 60 days of the approval of the unit, the HAP contract may be retroactive to the date the unit was approved. It is the date the PHA executed the contract, not the retroactive effective date of the contract, that establishes the deadline by which the initial billing must be mailed, emailed or faxed.) The initial PHA must immediately inform the receiving PHA in writing of its decision not to accept the late billing submission. **A receiving PHA that failed to send the initial billing within 10 working days following the date the HAP contract is executed is generally required to absorb the family into its own program unless the initial PHA is willing to accept the late submission.**

HUD may in certain instances require the initial PHA to honor a billing submission that is received after the 10 day deadline (such as where the receiving PHA is over-leased and is in danger of not being able to stay under unit months available for the Calendar Year). In such a case HUD may take action to address the receiving PHA’s failure to submit the notification in a timely manner, which may include reducing the receiving PHA’s administrative fee and subsequently transferring units from the receiving PHA to the initial PHA.

9. **Timing of the Initial and Subsequent Billing Payments.** The initial PHA must pay the first billing amount due within 30 calendar days of receipt of Part II of the Form HUD-52665. Subsequently, the initial PHA must make payment each month the billing arrangement is in effect **no later than the fifth working day of each month.** The payment must be provided in a form and manner that the receiving PHA is able and willing to accept

In many cases billing difficulties simply result from miscommunications and the PHAs involved are able to resolve the problem with HUD's assistance. HUD encourages PHAs to work cooperatively to resolve billing difficulties. However, it is ultimately the responsibility of the initial PHA to make billing payments in a timely manner.

The program regulations at §982.355(f)(1) provide that HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA ACC. Upon request of the receiving PHA, HUD will exercise this authority to transfer units from the initial PHA to the receiving PHA in cases where the initial PHA fails to comply with the initial and subsequent monthly billing due dates described above.

The initial PHA may not terminate or delay making payments under existing billing arrangements as a result of over-leasing or funding shortfalls at the initial PHA program. PHAs may only terminate HAP contracts as the result of insufficient funding in accordance with §982.454 to which they are a party.

10. Receiving PHA: On-going Responsibilities. The receiving PHA must send the initial PHA a copy of the updated Form HUD-50058 at each annual recertification for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount. The purpose of this notification is to serve as an annual "reconciliation" to assist both PHAs in fulfilling their accounting and record-keeping responsibilities. Should the initial PHA fail to receive an updated Form HUD-50058 by the annual recertification date, it should contact the receiving PHA to verify the status of the family. The initial PHA may not withhold payment solely because the receiving PHA did not submit the updated Form HUD 50058 by the annual recertification date.

The receiving PHA is also required to send a new Form HUD-52665 along with the Form HUD-50058 to report any change in the billing amount, if applicable. The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. However, under no circumstances should the notification be later than 10 working days following the effective date of the change in the billing amount.

If the receiving PHA fails to send the Form HUD-52665 within 10 working days following the effective date of the change in the billing amount, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification. For example, assume the billing amount increased effective April 1, 2008. The receiving PHA does not send the Form HUD-52665 reflecting the change until July 9, 2008. In this case, the initial PHA would not be responsible to pay for any increase in the billing amount prior to the forthcoming monthly payment for August 2008.

If the receiving PHA is absorbing a family for which it has been billing or if the housing assistance payments are terminated for any reason, the receiving PHA is encouraged to provide adequate notice of the effective date of the absorption or termination to avoid having to return a payment. In any event the receiving PHA **must** notify the initial PHA no later than 10 working days following the effective date of the termination of the billing arrangement. The receiving PHA may not retroactively absorb families for which the receiving PHA was previously billing for any time period that commences before 10 working days from the time the receiving PHA notifies the initial PHA of the absorption.

In the case where a family currently under a billing arrangement subsequently decides it wants to move under portability to yet another jurisdiction, the receiving PHA does not issue the family a voucher in order to do so. Instead, the receiving PHA notifies the initial PHA of the family request to port to another jurisdiction. The initial PHA is responsible for issuing the family's voucher and sending the Form HUD-52665 and supporting documentation to the new receiving PHA. Good communication between all three PHAs is very important in such a circumstance.

11. Summary of Portability Billing Deadlines. The following summarizes the relevant deadlines under the portability billing procedures.

- a. **Submission of Initial Billing Amount (Part II of the Form HUD- 50058) --** Receiving PHA must submit initial billing notice (1) no later than 10 working days following the date the HAP contract was executed and (2) in time that it will be received no later than 60 days following the expiration date of the family's voucher issued by the initial PHA.
- b. **Payment of First Billing Amount --** Initial PHA makes payment within 30 days of receipt of Part II of the Form HUD 50058 indicating billing amount.
- c. **Payment of Subsequent Billing Amounts --** The initial PHA is responsible for ensuring that subsequent billing amounts are received no later than the fifth working day of each month for which the monthly billing amount is due.
- d. **Notification of Change in Billing Amount or Other Action --** The receiving PHA notifies the initial PHA of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but in no circumstance any later than 10 working days following the effective date of the change.

12. Procedures for the Transfer of Units as a Result of Late Payments. In the case where the initial PHA fails to make the monthly payment to the receiving PHA by the fifth working day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family or families, the total billing payment that was late or has yet to be paid, and the date the payment was ultimately received (if received at all). A copy of the notification must be sent to the Director (or the staff person designated by the Director) of the Office of Public Housing (OPH) in the HUD Area Office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification (e.g., receiving PHA informs of late payment in June and the August payment is late), the receiving PHA may request by memorandum to the Director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit or units in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. A copy of the memorandum must be sent to the initial PHA.

The OPH will notify the initial PHA (and the OPH director in the HUD Area Office with jurisdiction over the initial PHA) within 15 working days of receiving the receiving PHA memorandum requesting the transfer of units. The OPH will provide the initial PHA with 15 working days to respond and provide any supporting documentation if the initial PHA is

contesting whether the billing payments in question were late. The OPH in the HUD Area Office with jurisdiction over the receiving PHA is the lead HUD office in resolving any dispute over the timeliness of the billing payments. That office is responsible for examining all documentation submitted by the PHAs and then determining if the billing payments were late if the initial PHA contests the receiving PHA's report. The OPH must render a decision no later than 15 working days following the deadline by which the initial PHA had to respond to the OPH memorandum.

If the OPH determines that the payments in question were late, the OPH will send a memorandum to the Housing Voucher Finance Division (with copies to the Area Office with jurisdiction over the initial PHA as well as to both PHAs) indicating the number of units to be permanently transferred from the initial PHA to the receiving PHA. The number will correspond with the number of families for which billing payments were late. Within 30 days of receiving the OPH memorandum recommending transfer of units, HUD will reduce the baseline number of units and concomitant budget authority from the initial PHA ACC and increase the baseline number of units and budget authority on the receiving PHA ACC in order to adjust the PHA program size as a result of poor portability billing performance. HUD will use the revised baseline numbers to readjust the funding. The billing arrangement on behalf of the family or families in question ceases with the transfer of the unit, although the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

These transfer policies notwithstanding, failure to comply with the financial procedures required by HUD, including the billing and payment deadlines outlined above, may also result in administrative sanctions, including the reduction of administrative fees.

13. Penalties for the Receiving PHA's Failure to Inform the Initial PHA of the Termination of a Billing Arrangement in a Timely Manner. If HUD determines that the receiving PHA has not notified the initial PHA that a billing arrangement has been terminated in a timely manner and has continued to accept payments from the initial PHA, HUD may reduce administrative fees for the receiving PHA.

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- The receiving PHA must return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, the receiving PHA must notify the Office of Public Housing in the HUD Area Office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

HUD may, in its discretion, take the following actions:

- Direct the PHA not to utilize their administrative fee reserve account in accordance with 24 C.F.R. 982.155(b)(3).
- Reduce the administrative fees for the receiving PHA by up to 10 percent of the monthly billing amount in question for each month that the billing payments continued after the billing arrangement was terminated, taking into consideration the circumstances of the particular case. The OPH in the HUD Area Office with jurisdiction over the receiving PHA will inform the PHA by letter of the amount of the sanction imposed as a result of the PHA's failure to promptly notify the initial PHA that the billing arrangement is terminated. The OPH must send a copy of the letter to the FMC and the FMD. (For example, if the receiving PHA was billing the initial PHA \$600 a month on behalf of a family and collected four monthly billing payments beyond the billing arrangement termination date (\$2400), the receiving PHA is responsible for returning \$2400 to the initial PHA. In addition, HUD may reduce the PHA administrative fee by up to \$240 as the sanction for failing to terminate the billing arrangement in a timely manner.)
- Further reduce the administrative fee if the receiving PHA does not promptly return the overpayment to the initial PHA.

This general policy does not in any way restrict the OPH Director from exercising additional remedial action in the event that the receiving PHA failed to notify initial PHAs that the billing arrangements have been terminated.

The attachment to this notice provides guidance on how refunded amounts should be recorded in the financial records by both the initial PHA and the receiving PHA.

14. PIC Data Entry. The following summarizes the correct action codes to use when completing the Form HUD-50058 for portable families.

a. Portability Move-in or New Admission

HUD-50058 Line Number 2a
Action Code = 4 or 1

The receiving PHA classifies a family as a **4-Portability Move-in** if the family moves into a receiving PHA's jurisdiction after being previously assisted by an initial PHA regardless of whether the receiving PHA absorbs the family or bills the initial PHA.

The receiving PHA classifies a family as a **1-New Admission** if the family exercises portability with its first admission into the voucher program. This family (generally off the waiting list) would have received a voucher for the first time from the initial PHA and exercised portability without ever having leased an assisted unit in the initial PHA's jurisdiction.

Effective Date of Action (Line 2b) is the effective date of the HAP contract for the family.

b. Portability Move-out

HUD-50058 Line Number 2a
Action Code = 5

A family is classified as a **5-Portability Move-out** if the family moves out of an initial PHA's jurisdiction, where it had been previously assisted, and into a receiving PHA's jurisdiction, regardless of whether the receiving PHA bills the initial PHA or absorbs the family.

PIC automatically generates a 5-Portability Move-out for the family record when the receiving PHA completes the 4-Portability Move-In or 1-New Admission for the family moving under portability.

c. Additional Data Entry Requirements

HUD-50058 Line Number 12d

If the family moved into a PHA's jurisdiction under portability as a new admission or portability move-in, regardless of whether the family is absorbed into the receiving PHA's jurisdiction or the initial PHA is billed, the PHA must enter Y in this field. That field will not change as long as the family continues to be assisted in the receiving PHA's jurisdiction, even if the receiving PHA decides to absorb the family after first billing the initial PHA.

HUD-50058 lines 12f

Since a PHA is not responsible for submitting reports into PIC for families whose assistance is being administered by another PHA under portability, the PHA code of the billed PHA must be entered correctly in order for reporting rates to be accurate.

It is crucial that PHAs enter timely and accurate information on portability families, as this data is used by HUD when determining whether a PHA is eligible for any additional funding that may be available for PHAs that are paying portability costs above their normal average costs. HUD encourages PHAs to review the PIC records periodically to ensure they are properly identified if such funding is made available under the Appropriations Act.

- 14. Paperwork Reduction Act.** The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0169. In accordance with the Paperwork Reduction Act, 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.
- 15. Further Information.** Any questions pertaining to the portability procedures may be addressed to the Housing Voucher Management and Operations Division at (202) 708-0477.

/s/

Paula O. Blunt, General Deputy Assistant Secretary
for Public and Indian Housing

Attachment

Guidance on PHA Entries for Returning Unearned HAPs and Fees under Portability

A number of cases have surfaced in which the receiving PHA did not promptly inform the initial PHA that billing arrangements were terminated as the result of absorption by the receiving PHA or families leaving the program. As a result the initial PHA continued to make monthly payments for housing assistance payments and administrative fees to the receiving PHA. The receiving PHA is required to refund the excess payments to the initial PHA.

The following guidance is provided regarding the appropriate accounting entries to accommodate the returned payments.

RECEIVING PHA:

Normally, the receiving PHA would have done the following when the HAP was paid to the owner on behalf of the family:

DR	Accounts Receivable – Initial PHA (for HAP and fee)
CR	Income (for Fee)
CR	Cash (for HAP payment)

Upon receipt of payment of HAP and fees from the initial PHA, the Receiving PHA would have:

DR	Cash
CR	Accounts Receivable – Initial PHA

Typically, when the billing arrangement ceased the first set of transactions did not happen (the owners were not paid and the income was not recorded) because the receiving PHA had terminated the HAP contract. The receiving PHA failed to inform the initial PHA and continued to debit Cash and credit Accounts Receivable when the payment arrived from the initial PHA. The large CR balance in the Accounts Receivable is abnormal and the PHA should have recognized something was amiss.

When the receiving PHA returns funds it should not have received to the initial PHA, the receiving PHA would:

DR	Accounts Receivable – Initial PHA
CR	Cash

When all refunds are made, the Accounts Receivable balance should be zero or at normal levels.

INITIAL PHA:

When the initial PHA recognized the obligation under the billing arrangement for the family that moved under the portability procedures it would have created the expense and the payable:

DR	Expense – Control (and subsidiaries for HAP and administrative expenses)
CR	Accounts Payable – Receiving PHA

When the initial PHA then paid the receiving PHA:

DR	Accounts Payable – Receiving PHA
CR	Cash

When the initial PHA receives the funds back from the receiving PHA:

DR	Cash
CR	Expenses – Control (and subsidiaries)