

§ 982.506

payment standard amount is determined in accordance with paragraph (c)(4) of this section.

(4) *Increase in the payment standard amount during the HAP contract term.* If the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount shall be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

(5) *Change in family unit size during the HAP contract term.* Irrespective of any increase or decrease in the payment standard amount, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard amount for the family beginning at the family's first regular reexamination following the change in family unit size.

(d) *PHA approval of higher payment standard for the family as a reasonable accommodation.* If the family includes a person with disabilities and requires a higher payment standard for the family, as a reasonable accommodation for such person, in accordance with part 8 of this title, the PHA may establish a higher payment standard for the family within the basic range.

[64 FR 26649, May 14, 1999, as amended at 64 FR 56914, Oct. 21, 1999; 65 FR 16822, Mar. 30, 2000; 65 FR 42509, July 10, 2000; 66 FR 30568, June 6, 2001; 67 FR 56689, Sept. 4, 2002; 80 FR 8247, Feb. 17, 2014]

EFFECTIVE DATE NOTE: At 81 FR 12376, March 8, 2016, §982.505(d) was revised, effective April 7, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 982.505 How to calculate housing assistance payment.

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(d) *PHA approval of higher payment standard for the family as a reasonable accommodation.* If the family includes a person with disabilities and requires a payment standard above the basic range, as a reasonable accommodation for such person, in accordance with part 8 of this title, the PHA may establish a payment standard for the family of not more than 120 percent of the FMR.

§ 982.506 Negotiating rent to owner.

The owner and the family negotiate the rent to owner. At the family's request, the PHA must help the family negotiate the rent to owner.

[63 FR 23861, Apr. 30, 1998. Redesignated at 64 FR 26648, May 14, 1999]

§ 982.507 Rent to owner: Reasonable rent.

(a) *PHA determination.* (1) Except as provided in paragraph (c) of this section, the PHA may not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent.

(2) The PHA must redetermine the reasonable rent:

(i) Before any increase in the rent to owner;

(ii) If there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary; or

(iii) If directed by HUD.

(3) The PHA may also redetermine the reasonable rent at any other time.

(4) At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the PHA.

(b) *Comparability.* The PHA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the PHA must consider:

(1) The location, quality, size, unit type, and age of the contract unit; and

(2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

(c) *Units assisted by low-income housing tax credits or assistance under HUD's HOME Investment Partnerships (HOME) program.* (1) *General.* For a unit receiving low-income housing tax credits (LIHTCs) pursuant to section 42 of the Internal Revenue Code of 1986 or receiving assistance under HUD's HOME Program (for which the regulations are found in 24 CFR part 92), a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or

HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

(2) *LIHTC*. If the rent requested by the owner exceeds the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations and the rent shall not exceed the lesser of the:

(i) Reasonable rent as determined pursuant to a rent comparability study; and

(ii) The payment standard established by the PHA for the unit size involved.

(3) *HOME Program*. [Reserved]

(d) *Owner certification of rents charged for other units*. By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere.

[63 FR 23861, Apr. 30, 1998. Redesignated at 64 FR 26648, May 14, 1999; 79 FR 36164, June 25, 2014]

§ 982.508 Maximum family share at initial occupancy.

At the time the PHA approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance under the program, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40 percent of the family's adjusted monthly income. The determination of adjusted monthly income must be based on verification information received by the PHA no earlier than 60 days before the PHA issues a voucher to the family.

[64 FR 59622, Nov. 3, 1999]

§ 982.509 Rent to owner: Effect of rent control.

In addition to the rent reasonableness limit under this subpart, the amount of rent to owner also may be

subject to rent control limits under State or local law.

[63 FR 23861, Apr. 30, 1998. Redesignated and amended at 64 FR 26648, May 14, 1999]

§ 982.510 Other fees and charges.

(a) The cost of meals or supportive services may not be included in the rent to owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent.

(b) The lease may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

(c) The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

[63 FR 23861, Apr. 30, 1998. Redesignated at 64 FR 26648, May 14, 1999]

§ 982.514 Distribution of housing assistance payment.

The monthly housing assistance payment is distributed as follows:

(a) The PHA pays the owner the lesser of the housing assistance payment or the rent to owner.

(b) If the housing assistance payment exceeds the rent to owner, the PHA may pay the balance of the housing assistance payment ("utility reimbursement") either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the PHA elects to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

[63 FR 23861, Apr. 30, 1998, as amended at 64 FR 56914, Oct. 21, 1999; 65 FR 16822, Mar. 30, 2000]

EFFECTIVE DATE NOTE: At 81 FR 12376, March 8, 2016, § 982.514 was amended by adding paragraph (c), effective April 7, 2016. For the convenience of the user, the added text is set forth as follows:

§ 982.514 Distribution of housing assistance payment.

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