



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;
Agencies that Administer the
Housing Choice Voucher Program.

Notice PIH 2010-11 (HA)

Issued: April 13, 2010

Expires: April 30, 2011

Cross References:

Notice PIH 2008-13 (HA)

24 CFR § 982.505(d)

24 CFR § 982.503(c)(2)(ii)

Subject: Requests for Exception Payment Standards for Persons with Disabilities as a Reasonable Accommodation

1. **Purpose.** The purpose of this notice is to extend (with minor revisions) Notice PIH 2008-13 which provided guidance on the process for review and approval of special payment standards under the Housing Choice Voucher program as a reasonable accommodation for a family with a person with disabilities. It clarifies the process for calculating exception payment standards and the type of supporting documentation and information that should be included in the waiver request.

2. **Background.** As stated in Notice PIH 2005-5 (extended indefinitely by PIH Letter L-2007-1), one of the purposes of an exception payment standard is to ensure that a family with a person with disabilities can rent a unit that meets the disabled person's needs.

On a case-by-case basis, as a reasonable accommodation, a PHA may approve a payment standard amount up to 110 percent of the published fair market rent (FMR) if its payment standards are set below 110 percent of the FMR in accordance with 24 CFR § 982.505(d). Such higher payment standards must be requested by the family and subsequently approved, as necessary, by the PHA after a family with a disabled person or an individual person with disabilities locates a unit.

The HUD Field Office Public Housing Director can approve exception payment standards above 110 percent to 120 percent of the FMR as a reasonable accommodation in accordance with 24 CFR § 982.503(c)(2)(ii). HUD Headquarters must waive 24 CFR § 982.505(d) to allow the PHA to approve any exception payment standards higher than 120 percent of the FMR as a reasonable accommodation.

3. **Calculation Process.** Since the family's rent share is capped at 40 percent of monthly adjusted income at initial occupancy when the gross rent exceeds the payment standard, the difference between 40 percent of monthly adjusted income and 30 percent of monthly adjusted income (i.e., 10 percent of monthly adjusted income) is subtracted from the gross rent (contract rent plus utility allowance) to determine the adjusted gross rent. Please note that the 40 percent cap will also be applied to families that need an exception payment standard to remain in their assisted units.

The adjusted gross rent is divided by the FMR for the unit size to determine its percentage of the FMR. If

the adjusted gross rent is not more than 110 percent of the FMR, the PHA can review and approve the request. If the adjusted gross rent is more than 110 percent, but not more than 120 percent of the FMR, the review and approval may be done by the field office. If the adjusted gross rent is above 120 percent of the FMR, the request must be submitted to Headquarters. In all cases the approved exception payment standard should equal the adjusted gross rent. An example of the calculation process is attached.

4. Documentation for Exception Payment Standard Requests. To facilitate the review for an exception payment standard as a reasonable accommodation, the PHA should include the following documentation in its request:

- A.** Note whether the family is an applicant or participant family.
- B.** The number of household members including a live-in aide/s.
- C.** The voucher size the family is issued under the PHA's subsidy standards or any exception to those standards granted through a reasonable accommodation request; e.g., as a reasonable accommodation, a single-person family may be issued a two-bedroom voucher due to a need to store medical equipment.
- D.** The FMR for the voucher size or unit size whichever is smaller.
- E.** When either the disability or the need for the requested accommodation is not known or readily apparent, a statement from a health care provider regarding the need for the reasonable accommodation and the features of the unit (which may include its location) which meet that person's needs.
- F.** The contract rent and utility allowance for the unit.
- G.** A statement from the PHA that it has determined the rent for the unit is reasonable, and that the unit has the feature/s required to meet the needs of the person with disabilities as noted in the statement from the health care provider where such a statement is necessary (see E. above).
- H.** The household's monthly adjusted income.
- I.** Proposed effective date of the new lease or actual effective date of the lease renewal.

5. Application of Approved Exception Payment Standard. Exception payment standards may remain in effect until or unless a higher exception payment standard is warranted, requested, and subsequently approved.

6. Headquarters Review. The regulatory waiver process in Public and Indian Housing requires PHAs to first send their request to the appropriate field office; the field office then forwards the waiver request to the appropriate program office at HUD Headquarters along with a field office recommendation (See PIH Notice 2009-41).

7. Information Contact. Inquiries about this notice should also be directed to Ms. Smelkinson, Housing

Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 402-4138 or by email at Phyllis.A.Smelkinson@hud.gov.

8. 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 (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, 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. The following active information collections contained in this notice have been approved under the PRA - OMB Control Number 2577-0169.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing

Attachment

EXAMPLE CALCULATION PROCESS

Fair Market Rent for Unit Size	\$1,041
Family's monthly adjusted income:	823
30% of monthly adjusted income:	247
40% of monthly adjusted income	329
Difference between 30% and 40%:	82
Contract Rent	1,505
Utility Allowance	40
Gross Rent	1,545
Adjusted Gross Rent (1,545 – 82)	1,463
Percentage of FMR (1,463/1,041)	141%