

Chapter 11

RENT AND HOUSING ASSISTANCE PAYMENT

11.1 GENERAL

Rent to owner is the total monthly rent payable to the owner under the lease for the unit. Rent to owner includes payment for any housing services, maintenance and utilities the owner is required to pay for and provide.

11.2 RENT REASONABLENESS

IHFA will not approve an initial rent or a rent increase in any of the tenant-based programs without determining that the rent amount is reasonable. Reasonableness is determined prior to the initial lease and at the following times:

- A. Before any increase in rent to owner is approved;
- B. If 60 days before the contract anniversary date there is a 5% decrease in the published FMR as compared to the previous FMR; and

If IHFA or HUD directs that reasonableness be re-determined.

11.3 COMPARABILITY

In making a rent reasonableness determination, IHFA will compare the rent for the unit to the rent of comparable units in the same or comparable neighborhoods. IHFA will consider the location, quality, size, number of bedrooms, age, amenities, housing services, maintenance and utilities of the unit and the comparable units.

Each branch office will maintain binders containing rent reasonableness information for the area served by that branch office. The binders will contain rent reasonableness and comparability information on each county served as well as for each bedroom size. The information will contain information on comparable units with varying levels of amenities. Rent Comparable libraries will be updated at least annually.

Owners are invited to submit information to the survey at any time. Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that will enable IHFA to establish a higher value.

The owner must certify the rents charged for other units. By accepting the housing assistance payment each month the owner is certifying that the rent to owner is not more than the rent charged by the owner for comparable unassisted units in the premises.

11.4 MAXIMUM SUBSIDY

The Fair Market Rent (FMR) published by HUD or the exception payment standard (requested by IHFA and approved by HUD) determines the maximum subsidy for a family.

The maximum subsidy the PHA can pay in the Section 8 HCV program is the payment standard minus the TTP. The maximum subsidy calculation is done at the time the family is issued a housing choice voucher. It is important for the family to know the maximum the PHA will pay while searching for a unit. The actual PHA subsidy can be calculated only after the family has selected a specific unit.

11.5 SETTING THE PAYMENT STANDARD

The Statute requires that the payment standard be set by IHFA between 90 and 110% of the FMR without HUD's prior approval. IHFA will review its determination of the payment standard annually after publication of the FMRs. IHFA will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of voucher holders in finding units, and the percentage of annual income families are paying for rent under the Voucher Program. If it is determined that success rates will suffer or that families have to rent low quality units or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships. This will be accomplished by the Rental Assistance Programs Department upon request from the branch office supervisor.

IHFA may establish a higher payment standard (although still within 110% of the published fair market rent) as a reasonable accommodation for a family that includes people with disabilities. Branch office supervisors may approve, as a reasonable accommodation, up to 110% of the FMR. Denials of such requests must be sent to the Boise office for review.

By the authority granted in PIH Notice 2013-3, if a payment standard over 110% up to 120% is necessary as a reasonable accommodation for a family that includes a person with disabilities, a request will be made to the Senior Manager of Rental Assistance Programs in the Boise office for approval of the exception. Any such request must be forwarded from the Branch Office Supervisor to the Section 8 Coordinator in the Boise Rental Assistance Programs Department for review and submission to the Senior Manager of Rental Assistance Programs.

Payment standards will not be raised solely to allow the renting of luxury quality units.

If success levels are projected to be extremely high and rents are projected to be at or below 30% of income, IHFA will reduce the payment standard. Payment standards for each bedroom size are evaluated separately so that the payment standard for one bedroom size may increase or decrease while another remains unchanged. IHFA may consider adjusting payment standards at times other than the annual review when circumstances warrant.

Before increasing any payment standard, the Rental Assistance Programs Department of IHFA will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds

will continue to be available to assist families in the program. **IHFA will implement new payment standards no later than January 1 each year, based upon HUD's most recent published FMR's.**

11.6 SELECTING THE CORRECT PAYMENT STANDARD FOR A FAMILY

- A. For the voucher tenancy, the payment standard for a family is the lower of:
 - 1. The payment standard for the family unit size; or
 - 2. The payment standard for the unit size rented by the family.
- B. If the unit rented by a family is located in an exception rent area, IHFA will use the appropriate payment standard for the exception rent area.
- C. If IHFA reduces the payment standard during the term of a HAP contract, the payment standard will be determined as follows:
 - 1. IHFA must determine the payment standard for the family using the new lower payment standard amount; and then
 - 2. Compare the payment standard from step 1 to the payment standard amount last used for the family. The higher of these two amounts will be used as the payment standard for the first regular reexamination following the decrease in the payment standard amount. At the second annual reexamination the lower (decreased) payment standard is used, unless IHFA has subsequently increased the payment standard.
- D. At the next annual reexamination following a change in family size or composition during the HAP contract term and for any reexamination thereafter, paragraph C above does not apply.
- E. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination.
- F. Under special circumstances IHFA may grant exceptions to the payment standard, up to 110% of HUD's published FMR. By the authority granted in PIH Notice 2013-3, the Senior Manager of Rental Assistance Programs may approve an exception payment standard within the upper range (110% to 120%) if required as a reasonable accommodation for a family that includes a person with disabilities. In the event that a 120% exception to the published FMR is granted, the payment standard will not be increased at the annual but remains the same until HUD's published FMR equals the exception payment standard.

11.7 AREA EXCEPTION RENTS

In order to help families find housing outside areas of high poverty or when voucher holders are having trouble finding housing for lease under the program, IHFA may request that HUD approve an exception payment standard rent for certain areas within its jurisdiction. The areas may be of any size, though generally not smaller than a census tract. IHFA may request one such exception payment standard area or many. Exception payment standard rent authority may be requested for all or some unit sizes, or for all or some unit types. The exception payment standard area(s) may not contain more than 50% of the population of the FMR area. Exception rent recommendations will be made by the branch office supervisor to the Rental Assistance Programs Administrator. Such recommendations will be analyzed to determine necessity and financial feasibility before submission to HUD.

When an exception payment standard rent has been approved and the FMR increases, the exception rent remains unchanged until such time as IHFA requests and HUD approves a higher exception payment standard rent. If the FMR decreases, the exception payment standard rent authority automatically expires.

11.8 RENT CALCULATIONS

A. Total Tenant Payment

The total tenant payment is equal to the highest of:

1. 10% of monthly income
2. 30% of adjusted monthly income
3. Minimum rent (\$50)

Plus any rent above the payment standard.

B. Minimum Rent

IHFA has set the minimum rent as \$50. In the event the family requests a hardship exemption, IHFA will suspend the minimum rent for the family beginning the month following the family's hardship request. The suspension will continue until IHFA can determine whether hardship exists and whether the hardship is of a temporary or long-term nature. During suspension, the family will not be required to pay a minimum rent and the Housing Assistance Payment will be increased accordingly.

1. A hardship exists in the following circumstances:
 - a. When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program including a family that includes a member who is a non-citizen lawfully admitted to

permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996.

- b. When the family would be evicted because it is unable to pay the minimum rent;
 - c. When the income of the family has decreased because of changed circumstances, including loss of employment. A voluntary termination of employment will not qualify as loss of employment;
 - d. When a death has occurred in the family;
 - e. Other circumstances determined by IHFA or HUD
2. No hardship. If IHFA determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent to IHFA for the time of suspension. To qualify for a hardship exemption, the hardship would have to be imposed through no fault of the family.
 3. Temporary hardship. IHFA defines temporary hardship as a hardship that is expected to last 90 days or less. If IHFA determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 days from the month following the date of the family's request. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. IHFA will offer a reasonable repayment agreement for any minimum rent back payment paid by IHFA on the family's behalf during the period of suspension.
 4. Long-term hardship. IHFA defines long-term hardship as a hardship that is expected to last more than 90 days. If IHFA determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists. This exemption requires branch supervisor approval.
 5. Appeals. The family may use the informal hearing procedure to appeal IHFA's determination regarding the hardship. No escrow deposit will be required in order to access the informal hearing procedures.
 6. Families assisted with enhanced housing choice vouchers have a special statutory minimum rent requirement. The law requires that a family receiving enhanced voucher assistance must pay for rent no less than the rent the family was paying on the date of the eligible event for the project. The eligibility event is the expiration date of the expiring project based contract in the case of owner opt outs. The method for calculating the minimum rent changes if the

family's income subsequently decreases to a significant extent (15% or more) from the family's gross income on the effective date of the prepayment. The enhanced voucher minimum rent only applies if the family remains in the project. If the family moves from the project the regular minimum rent applies.

C. Section 8 Housing Choice Vouchers

1. The payment standard is set by IHFA between 90% and 110% of the FMR or higher or lower with HUD approval.
2. The participant pays the greater of the Total Tenant Payment or the minimum rent, plus the amount by which the gross rent exceeds the payment standard.
3. No participant when initially receiving tenant-based assistance on a unit shall pay more than 40% of their monthly-adjusted income if the gross rent exceeds the applicable payment standard.

D. Rent Calculations

1. Payment Standard

The payment standard is the lower of:

- a. The payment standard amount for the appropriate family unit size; or
 - b. The payment standard amount for the size of the dwelling unit actually rented by the family.
2. If the dwelling unit is located in an exception area, IHFA will use the appropriate payment standard for the exception area.
 3. During the HAP contract term, the payment standard for the family is the higher of:
 - a. The initial payment standard (at the beginning of the HAP contract term), as determined in accordance with paragraph (1)(a) or (1)(b) of this section, minus any amount by which the initial rent to the owner exceeds the current rent to the owner; or
 - b. The payment standard as determined in accordance with paragraph (1)(a) or (1)(b) of this section, as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

4. At the next regular reexamination following a change in family composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:
 - a. Paragraph (c)(i) of this section does not apply; and
 - b. The new family unit size must be used to determine the payment standard.

IHFA will pay a monthly housing assistance payment on behalf of the family that equals the lesser of:

- a. The payment standard minus the total tenant payment; or
 - b. The gross rent minus the total tenant payment.
- E. For a voucher tenancy in an insured or noninsured 236 Project, a 515 Project of the Rural Development Administration, a Section 221(d)(3) below market interest rate project, or a Section 202 project the payment standard may not exceed the basic rent charged including the cost of tenant-paid utilities.
- F. Rent for Families under the Non-citizen Rule

A mixed family will receive full continuation of assistance if all of the following conditions are met:

1. The family was receiving assistance on June 19, 1995;
2. The family was granted continuation of assistance before November 29, 1996;
3. The family's head or spouse has eligible immigration status; and
4. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

If a mixed family qualifies for prorated assistance but decides not to accept it, or if the family has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision the family receives full assistance. The maximum period of time for assistance under the provision is 12 months. IHFA will grant each family a period of 6 months to find suitable affordable housing. If the family cannot find suitable affordable housing, IHFA will provide additional search periods up to the maximum time allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

The family's assistance is prorated in the following manner:

1. Find the prorated housing assistance payment (HAP) by dividing the HAP by the total number of family members, and then multiplying the result by the number of eligible family members.
2. Obtain the prorated family share by subtracting the prorated HAP from the gross rent (contract rent plus utility allowance).
3. The prorated tenant rent equals the prorated family share minus the full utility allowance.

G. Conversion Action Payment Standards

1. When a multi family project that has been restructured, this is considered an enhanced voucher. The family may choose to remain in the unit, or move from the project. When the family chooses to remain in the unit, the payment standard is the rent to the owner plus the utility allowance (provided the proposed gross rent is rent reasonable), regardless of whether the gross rent exceeds the normally applicable PHA payment standard. Subject to availability of appropriations, the payment standard used to calculate the family subsidy will continue to be enhanced to match the gross rent of the unit if the gross rent exceeds the normally applicable payment standard and the PHA determines the rent is reasonable for as long as the enhanced voucher family continues to reside in the same project.
2. If the family chooses to move from the project, IHFA's regular payment standard will be used.

11.9 UTILITY ALLOWANCE

IHFA maintains a utility allowance schedule for all participant-paid utilities (except telephone), for cost of participant-supplied refrigerators and ranges, and for other participant-paid housing services (e.g., trash collection, disposal of waste and refuse).

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, IHFA uses normal patterns of consumption for the community as a whole, and current utility rates.

IHFA reviews the utility allowance schedule annually and revises any allowance for a utility category. HUD regulations require a revision if there has been a change of 10% or more in the

utility rate since the last time the utility allowance schedule was revised, however, it is IHFA's general policy to revise the utility allowance annually regardless of the amount of change. IHFA maintains information supporting the annual review of utility allowances and any revision made in its utility allowance schedule. Participants may review this information at any time by making an appointment with the branch office supervisor. Prior to that appointment, the branch office supervisor will obtain the appropriate documentation from the Boise Rental Assistance Programs department.

IHFA uses the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under IHFA subsidy standards).

At each reexamination, IHFA applies the utility allowance from the most current utility allowance schedule.

IHFA will approve a request for a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

In some cases the family will be entitled to a utility reimbursement. The amount of the utility reimbursement is the amount by which the HAP payment exceeds the rent to the owner. When there is a utility reimbursement, IHFA pays the full amount of the rent to the owner and sends the utility reimbursement to the family.

11.10 DISTRIBUTION OF HOUSING ASSISTANCE PAYMENT

IHFA pays the owner the lesser of the housing assistance payment or the rent to owner. If payments are not made when due, the owner may charge IHFA a late payment, agreed to in the Contract and in accordance with generally accepted practices in IHFA jurisdiction if the following conditions apply:

- A. It is the owner's practice to charge such penalties for assisted and unassisted tenants; and
- B. The owner also charges such penalties against the participant for late payment of family rent to the owner.

Late charges will not be paid when the reason for the lateness is attributable to factors beyond the control of IHFA.

11.11 CHANGE OF OWNERSHIP

IHFA requires a written request by the owner who executed the HAP contract in order to make a change regarding who is to receive the HAP or the address as to where the rent payment should be sent.

In addition, IHFA requires a written request from the new owner to process a change of ownership. The following documents must accompany the written request:

- A. Deed of Trust, Warranty Deed, Quit Claim Deed, or verification through the assessor's office showing the transfer of title and the completed IHFA Assignment of Contract; and
- B. Tax Identification Number or Social Security Number
- C. Acknowledgement of Lease and HAP Contract.

New owners will be required to execute IRS form W-9. IHFA may withhold the rent payment until the taxpayer identification number is received.

NOTES