

Section 13.0 INFORMAL REVIEW PROCEDURES FOR APPLICANTS

13.01 Preference Denials

If the LA denies a preference to an applicant, the applicant will be notified in writing of the specific reason for the denial and will be offered the opportunity for an informal **meeting** (not an informal review) with LA staff to discuss the reasons for the denial. An informal meeting may be held virtually upon request and if all parties agree, and must adhere to the remote procedures set forth in Section 14 of this Administrative Plan and all other applicable HUD and NYS HCR requirements.

The person who conducts the meeting will be an employee of the LA who is at or above the level of the employee but not the employee who made the decision.

13.02 Informal Review Procedures for Applicants

The LA will give an applicant for participation in the Section 8 Housing Choice Voucher Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the decision including the documentation used if obtained from a state or local agency with an approved consent form. Written notification indicating the applicant has ten (10) days from the date of the written correspondence to review and/or dispute must be provided prior to a notice of denial. After such time, if proceeding with a denial, a second notification must be sent indicating the applicant may request an informal review within ten (10) business days. The final date in which the applicant may respond **must** be stated and will describe how to obtain the informal review. If needed, an applicant should be given an opportunity to submit a written request to reschedule an informal review. The applicant will be granted only one opportunity to reschedule an informal review. The informal review must be conducted within 30 days from the date of the denial notice.

13.03 When an Informal Review is Not Required

The LA will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. a determination of family unit size under the LA subsidy standards;
2. LA determination not to approve an extension or suspension of a voucher term;
3. LA determination not to grant approval to lease a unit under the program or to approve a proposed lease;
4. LA determination that a unit selected by the applicant is not in compliance with Housing Quality Standards (HQS), including reasons related to family size or composition;

5. general policy issues or class grievances; or
6. discretionary administrative determinations by the LA.

13.04 Informal Review Process

The LA will give an applicant an opportunity for an informal review of the LA's decision denying assistance to the applicant.

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the LA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- the reason(s) they have been determined ineligible;
- the procedure for requesting a review if the applicant contests the decision; and
- the deadline or time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the LA will provide the subject of the record and the applicant with a copy of the criminal record and any other documentation upon which the decision to deny was based.

The LA will provide applicants with the opportunity for an informal review of decisions denying:

- listing on the LA's waiting list;
- issuance of a Voucher;
- participation in the program; and
- assistance under portability procedures.

13.05 Procedure for Review

A request for an informal review must be received in writing by the close of the business day, no later than ten business days from the date of the LA's notification of denial of assistance. The informal review will be scheduled within five business days from the date the request is received. The informal review must be conducted within 30 days from the date of the notice of denial.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. The review may be conducted by any of the following:

- a staff person who is at the Casework Supervisor level or above;
- the Program Director or Executive Director (if not the same person who made the initial decision to deny assistance); or
- an individual from outside the LA.

The applicant will be given the option of presenting oral or written objections to the initial decision. Both the LA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist the family at its own expense. The review may be conducted by mail and/or telephone if acceptable to both parties.

The LA is ultimately responsible for deciding and communicating the decision to uphold or amend the original outcome. A notice of the review findings will be provided in writing to the applicant within fourteen days after the review. It will include the decision of the review officer and an explanation of the reasons for the decision. Once the outcome and communication to uphold or amend the original decision has been finalized and issued, the matter is considered resolved and no further review will be permitted.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the applicant's file.

13.06 Mitigating Circumstances for Applicants with Disabilities

When applicants are denied placement on the waiting list or the LA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Examples of mitigating circumstances are:

- A person with a cognitive disorder may not have understood the requirement to report increases in income.
- A person may not understand the need to make regular repayments on a promissory note.
- Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

13.07 USCIS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the USCIS SAVE system and manual searches do not verify the claim, the LA will notify the applicant within ten days of his/her right to appeal to the USCIS within thirty days or to request an informal hearing with the LA, either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, it must give the LA a copy of the appeal and proof of mailing or the LA may proceed to deny assistance. The time period to request an appeal may be extended by the LA for good cause.

13.08 Restrictions on Assistance to Non-Citizens

Assistance to an applicant will not be delayed or denied if:

- on the basis of immigration status if the applicant, within all requirements and/or dates specified by Section 5.508 of program regulations, takes all necessary steps to provide required documentation;
- the LA has not completed primary and secondary verification of immigration documents submitted by the applicant in a timely manner;
- if the USCIS appeals process under Section 5.514 has not been completed;
- if the ineligible family member has left the household; or
- assistance to the applicant will be prorated;

Assistance to an applicant will be denied if:

- if a declaration of citizenship and eligible immigration status is not submitted by the date specified;
- USCIS primary and secondary verification does not support eligible immigration status of a family member;
- the applicant family does not pursue USCIS appeal or informal hearing rights; or
- USCIS appeal or informal hearing decisions are decided against the applicant or an individual family member.

13.09 Informal Review Regarding Citizenship Status with LA

The request for an LA review must be made within 14 days of receipt of the notice offering the review; if an appeal was made to the USCIS, within fourteen days of receipt of that notice. The applicant will be notified that assistance will not be denied until the USCIS appeal process concludes but that assistance may be denied pending the LA informal hearing.

After receipt of a request for an informal review, the hearing is conducted as previously described in this section. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the LA will deny assistance to the applicant.

Families denied for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as reviews for terminations for any other type of fraud.