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(1) The application for financial assistance;

(2) The form completed by the family for income reexamination;

(3) Photocopies of any original documents (front and back), including original INS documents;

(4) The signed verification consent form;

(5) The INS verification results;

(6) The request for an INS appeal;

(7) The final INS determination;

(8) The request for an informal hearing; and

(9) The final informal hearing decision.

(i) *Termination of assisted occupancy.* (1) Under Housing covered programs, and in the Section 8 covered programs other than the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by:

(i) If permitted under the lease, the responsible entity notifying the tenant that because of the termination of assisted occupancy the tenant is required to pay the HUD-approved market rent for the dwelling unit.

(ii) The responsible entity and tenant entering into a new lease without financial assistance.

(iii) The responsible entity evicting the tenant. While the tenant continues in occupancy of the unit, the responsible entity may continue to receive assistance payments if action to terminate the tenancy under an assisted lease is promptly initiated and diligently pursued, in accordance with the terms of the lease, and if eviction of the tenant is undertaken by judicial action pursuant to State and local law. Action by the responsible entity to terminate the tenancy and to evict the tenant must be in accordance with applicable HUD regulations and other HUD requirements. For any jurisdiction, HUD may prescribe a maximum period during which assistance payments may be continued during eviction proceedings and may prescribe other standards of reasonable diligence for the prosecution of eviction proceedings.

(2) In the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by terminating assistance payments. (See provisions of this section concerning termination of assistance.) The PHA shall not make any additional assistance payments to the owner after the required procedures specified in this section have been completed. In addition, the PHA shall not approve a lease, enter into an assistance contract, or process a portability move for the family after those procedures have been completed.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60539, Nov. 29, 1996; 64 FR 25731, May 12, 1999]

§ 5.516 Availability of preservation assistance to mixed families and other families.

(a) *Assistance available for tenant mixed families*—(1) *General.* Preservation assistance is available to tenant mixed families, following completion of the appeals and informal hearing procedures provided in § 5.514. There are three types of preservation assistance:

(i) Continued assistance (see paragraph (a) of § 5.518);

(ii) Temporary deferral of termination of assistance (see paragraph (b) of § 5.518); or

(iii) Prorated assistance (see § 5.520, a mixed family must be provided prorated assistance if the family so requests).

(2) *Availability of assistance*—(i) *For Housing covered programs:* One of the three types of assistance described is available to tenant mixed families assisted under a National Housing Act or 1965 HUD Act covered program, depending upon the family's eligibility for such assistance. Continued assistance must be provided to a mixed family that meets the conditions for eligibility for continued assistance.

(ii) *For Section 8 or Public Housing covered programs.* One of the three types of assistance described may be available to tenant mixed families assisted under a Section 8 or Public Housing covered program.

(b) *Assistance available for applicant mixed families.* Prorated assistance is also available for mixed families applying for assistance as provided in § 5.520.

(c) *Assistance available to other families in occupancy.* Temporary deferral of termination of assistance may be

available to families receiving assistance under a Section 214 covered program on June 19, 1995, and who have no members with eligible immigration status, as set forth in paragraphs (c)(1) and (2) of this section.

(1) *For Housing covered programs:* Temporary deferral of termination of assistance is available to families assisted under a Housing covered program.

(2) *For Section 8 or Public Housing covered programs:* The responsible entity may make temporary deferral of termination of assistance to families assisted under a Section 8 or Public Housing covered program.

(d) *Section 8 covered programs: Discretion afforded to provide certain family preservation assistance*—(1) *Project owners.* With respect to assistance under a Section 8 Act covered program administered by a project owner, HUD has the discretion to determine under what circumstances families are to be provided one of the two statutory forms of assistance for preservation of the family (continued assistance or temporary deferral of assistance). HUD is exercising its discretion by specifying the standards in this section under which a project owner must provide one of these two types of assistance to a family. However, project owners and PHAs must offer prorated assistance to eligible mixed families.

(2) *PHAs.* The PHA, rather than HUD, has the discretion to determine the circumstances under which a family will be offered one of the two statutory forms of assistance (continued assistance or temporary deferral of termination of assistance). The PHA must establish its own policy and criteria to follow in making its decision. In establishing the criteria for granting continued assistance or temporary deferral of termination of assistance, the PHA must incorporate the statutory criteria, which are set forth in paragraphs (a) and (b) of §5.518. However, the PHA must offer prorated assistance to eligible families.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60539, Nov. 29, 1996; 64 FR 25732, May 12, 1999]

§5.518 Types of preservation assistance available to mixed families and other families.

(a) *Continued assistance.* (1) *General.* A mixed family may receive continued housing assistance if all of the following conditions are met (a mixed family assisted under a Housing covered program must be provided continued assistance if the family meets the following conditions):

(i) The family was receiving assistance under a Section 214 covered program on June 19, 1995;

(ii) The family's head of household or spouse has eligible immigration status as described in §5.506; and

(iii) The family does not include any person (who does not have eligible immigration status) other than the head of household, any spouse of the head of household, any parents of the head of household, any parents of the spouse, or any children of the head of household or spouse.

(2) *Proration of continued assistance.* A family entitled to continued assistance before November 29, 1996 is entitled to continued assistance as described in paragraph (a) of this section. A family entitled to continued assistance after November 29, 1996 shall receive prorated assistance as described in §5.520.

(b) *Temporary deferral of termination of assistance*—(1) *Eligibility for this type of assistance.* If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, the family may be eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing. Other affordable housing is used in the context of transition of an ineligible family from a rent level that reflects HUD assistance to a rent level that is unassisted; the term refers to housing that is not substandard, that is of appropriate size for the family and that can be rented for an amount not exceeding the amount that the family pays for rent, including utilities, plus 25 percent.