payment standards for the family must be the lower of:
(i) The payment standards for the family unit size; or
(ii) The payment standard for the unit size rented by the family.

(d) **Size of unit occupied by family.** (1) The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit must meet the applicable HQS space requirements.
(2) The family may lease an otherwise acceptable dwelling unit with more bedrooms than the family unit size.


§ 982.403 Terminating HAP contract when unit is too small.

(a) **Violation of HQS space standards.**
(1) If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible.
(2) If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

(b) **Certificate program only—Subsidy too big for family size.** (1) Paragraph (b) of this section applies to the tenant-based certificate program.
(2) The PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible if:
(i) The family is residing in a dwelling unit with a larger number of bedrooms than appropriate for the family unit size under the PHA subsidy standards; and
(ii) The gross rent for the unit (sum of the contract rent plus any utility allowance for the unit size leased) exceeds the FMR/exception rent limit for the family unit size under the PHA subsidy standards.
(3) The PHA must notify the family that exceptions to the subsidy standards may be granted, and the circumstances in which the grant of an exception will be considered by the PHA.
(4) If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

(c) **Termination.** When the PHA terminates the HAP contract under paragraph (a) of this section:
(1) The PHA must notify the family and the owner of the termination; and
(2) The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.
(3) The family may move to a new unit in accordance with § 982.314.

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§ 982.404 Maintenance: Owner and family responsibility; PHA remedies.

(a) **Owner obligation.** (1) The owner must maintain the unit in accordance with HQS.
(2) If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations. PHA remedies for such breach of the HQS include termination, suspension or reduction of housing assistance payments and termination of the HAP contract.
(3) The PHA must not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the PHA and the PHA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any PHA-approved extension).
(4) The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible (as provided in § 982.404(b) and § 982.551(c)). (However, the PHA may terminate assistance to a family because of HQS breach caused by the family.)
§ 982.405 Family obligation.

(1) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

(ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

(iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(2) If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension).

(3) If the family has caused a breach of the HQS, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with § 982.552.

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§ 982.406 Enforcement of HQS.

Part 982 does not create any right of the family, or any party other than HUD or the PHA, to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

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