

(2) The payment standard for the family as calculated in accordance with § 982.505, except that § 982.505(b)(2) shall not be applicable until the effective date of the second regular reexamination of family income and composition on or after the merger date.

(d) *Regular certificate tenancy.* The PHA must terminate program assistance under any outstanding HAP contract for a regular tenancy under the certificate program (entered prior to the merger date) at the effective date of the second regular reexamination of family income and composition on or after the merger date. Upon such termination of assistance, the HAP contract for such tenancy terminates automatically. The PHA must give at least 120 days written notice of such termination to the family and the owner, and the PHA must offer the family the opportunity for continued tenant-based assistance under the voucher program. The PHA may deny the family the opportunity for continued assistance in accordance with §§ 982.552 and 982.553.

[64 FR 26648, May 14, 1999, as amended at 64 FR 56914, Oct. 21, 1999; 65 FR 16822, Mar. 30, 2000]

§ 982.503 Voucher tenancy: Payment standard amount and schedule.

(a) *Payment standard schedule.* (1) HUD publishes the fair market rents for each market area in the United States (see part 888 of this title). The PHA must adopt a payment standard schedule that establishes voucher payment standard amounts for each FMR area in the PHA jurisdiction. For each FMR area, the PHA must establish payment standard amounts for each “unit size.” Unit size is measured by number of bedrooms (zero-bedroom, one-bedroom, and so on).

(2) The payment standard amounts on the PHA schedule are used to calculate the monthly housing assistance payment for a family (§ 982.505).

(3) The PHA voucher payment standard schedule shall establish a single payment standard amount for each unit size. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may establish a separate payment

standard amount for each designated part of the FMR area.

(b) *Establishing payment standard amounts.* (1)(i) The PHA may establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that unit size. HUD approval is not required to establish a payment standard amount in that range (“basic range”).

(ii) The PHA may establish a separate payment standard amount within the basic range for a designated part of an FMR area.

(2) The PHA must request HUD approval to establish a payment standard amount that is higher or lower than the basic range. HUD has sole discretion to grant or deny approval of a higher or lower payment standard amount. Paragraphs (c) and (e) of this section describe the requirements for approval of a higher payment standard amount (“exception payment standard amount”).

(c) *HUD approval of exception payment standard amount—(1) HUD discretion.* At HUD’s sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the fair market rent area (called an “exception area”). HUD may approve an exception payment standard amount in accordance with this paragraph (c) of this section for all units, or for all units of a given unit size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount.

(2) *Above 110 percent of FMR to 120 percent of published FMR.* (i) The HUD Field Office may approve an exception payment standard amount from above 110 percent of the published FMR to 120 percent of the published FMR (upper range) if the HUD Field Office determines that approval is justified by either the median rent method or the 40th or 50th percentile rent method as described in paragraph (c)(2)(i)(B) of this section (and that such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section).

(A) *Median rent method.* In the median rent method, HUD determines the exception payment standard amount by multiplying the FMR times a fraction of which the numerator is the median gross rent of the exception area and the denominator is the median gross rent of the entire FMR area. In this method, HUD uses median gross rent data from the most recent decennial United States census, and the exception area may be any geographic entity within the FMR area (or any combination of such entities) for which median gross rent data is provided in decennial census products.

(B) *40th or 50th percentile rent method.* In this method, HUD determines that the area exception payment standard amount equals either the 40th or 50th percentile of rents for standard quality rental housing in the exception area. HUD determines whether the 40th or 50th percentile rent applies in accordance with the methodology described in § 888.113 of this title for determining FMRs. A PHA must present statistically representative rental housing survey data to justify HUD approval.

(ii) The HUD Field Office may approve an exception payment standard amount within the upper range if required as a reasonable accommodation for a family that includes a person with disabilities.

(3) *Above 120 percent of FMR.* (i) At the request of a PHA, the Assistant Secretary for Public and Indian Housing may approve an exception payment standard amount for the total area of a county, PHA jurisdiction, or place if the Assistant Secretary determines that:

(A) Such approval is necessary to prevent financial hardship for families;

(B) Such approval is supported by statistically representative rental housing survey data to justify HUD approval in accordance with the methodology described in § 888.113 of this title; and

(C) Such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section.

(ii) For purposes of paragraph (c)(3) of this section, the term "place" is an incorporated place or a U.S. Census designated place. An incorporated

place is established by State law and includes cities, boroughs, towns, and villages. A U.S. Census designated place is the statistical counterpart of an incorporated place.

(4) *Program justification.* (i) HUD will only approve an exception payment standard amount (pursuant to paragraph (c)(2) or paragraph (c)(3) of this section) if HUD determines that approval of such higher amount is needed either:

(A) To help families find housing outside areas of high poverty, or

(B) Because voucher holders have trouble finding housing for lease under the program within the term of the voucher.

(ii) HUD will only approve an exception payment standard amount (pursuant to paragraph (c)(3) of this section) after six months from the date of HUD approval of an exception payment standard pursuant to paragraph (c)(2) of this section for the area.

(5) *Population.* The total population of HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

(6) *Withdrawal or modification.* At any time, HUD may withdraw or modify approval to use an exception payment standard amount.

(7) *Transition: Area exception rents approved prior to merger date.* Subject to paragraph (c)(6) of this section, the PHA may establish an exception payment standard amount up to the amount of a HUD-approved area exception rent in effect at the merger date.

(d) *HUD approval of payment standard amount below the basic range.* HUD may consider a PHA request for approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve PHA establishment of a payment standard lower than the basic range. In determining whether to approve the PHA request, HUD will consider appropriate factors, including rent burden of families assisted under the program. HUD will not approve a lower payment standard if the family share for more than 40 percent of participants in the PHA's voucher program exceeds 30 percent of adjusted monthly income. Such determination may be based on the

most recent examinations of family income.

(e) *HUD approval of success rate payment standard amounts.* In order to increase the number of voucher holders who become participants, HUD may approve requests from PHAs whose FMRs are computed at the 40th percentile rent to establish higher, success rate payment standard amounts. A success rate payment standard amount is defined as any amount between 90 percent and 110 percent of the 50th percentile rent, calculated in accordance with the methodology described in § 888.113 of this title.

(1) A PHA may obtain HUD Field Office approval of success rate payment standard amounts provided the PHA demonstrates to HUD that it meets the following criteria:

(i) Fewer than 75 percent of the families to whom the PHA issued rental vouchers during the most recent 6 month period for which there is success rate data available have become participants in the voucher program;

(ii) The PHA has established payment standard amounts for all unit sizes in the entire PHA jurisdiction within the FMR area at 110 percent of the published FMR for at least the 6 month period referenced in paragraph (e)(1)(i) of this section and up to the time the request is made to HUD; and

(iii) The PHA has a policy of granting automatic extensions of voucher terms to at least 90 days to provide a family who has made sustained efforts to locate suitable housing with additional search time.

(2) In determining whether to approve the PHA request to establish success rate payment standard amounts, HUD will consider whether the PHA has a SEMAP overall performance rating of “troubled”. If a PHA does not yet have a SEMAP rating, HUD will consider the PHA’s SEMAP certification.

(3) HUD approval of success rate payment standard amounts shall be for all unit sizes in the FMR area. A PHA may opt to establish a success rate payment standard amount for one or more unit sizes in all or a designated part of the PHA jurisdiction within the FMR area.

(f) *Payment standard protection for PHAs that meet deconcentration objec-*

tives. Paragraph (f) of this section applies only to a PHA with jurisdiction in an FMR area where the FMR had previously been set at the 50th percentile rent to provide a broad range of housing opportunities throughout a metropolitan area, pursuant to § 888.113(c), but is now set at the 40th percentile rent.

(1) Such a PHA may obtain HUD Field Office approval of a payment standard amount based on the 50th percentile rent if the PHA scored the maximum number of points on the deconcentration bonus indicator in § 985.3(h) in the prior year, or in two of the last three years.

(2) HUD approval of payment standard amounts based on the 50th percentile rent shall be for all unit sizes in the FMR area that had previously been set at the 50th percentile rent pursuant to § 888.113(c). A PHA may opt to establish a payment standard amount based on the 50th percentile rent for one or more unit sizes in all or a designated part of the PHA jurisdiction within the FMR area.

(g) *HUD review of PHA payment standard schedules.* (1) HUD will monitor rent burdens of families assisted in a PHA’s voucher program. HUD will review the PHA’s payment standard for a particular unit size if HUD finds that 40 percent or more of such families occupying units of that unit size currently pay more than 30 percent of adjusted monthly income as the family share. Such determination may be based on the most recent examinations of family income.

(2) After such review, HUD may, at its discretion, require the PHA to modify payment standard amounts for any unit size on the PHA payment standard schedule. HUD may require the PHA to establish an increased payment standard amount within the basic range.

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§ 982.504 Voucher tenancy: Payment standard for family in restructured subsidized multifamily project.

(a) This section applies to tenant-based assistance under the voucher