

§ 578.79

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child-care expenses);

(2) 10 percent of the family's monthly income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family's actual housing costs) is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated for housing costs.

(4) *Income.* Income must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a). Recipients and subrecipients must examine a program participant's income initially, and if there is a change in family composition (*e.g.*, birth of a child) or a decrease in the resident's income during the year, the resident may request an interim reexamination, and the occupancy charge will be adjusted accordingly.

(c) *Resident rent.* (1) *Amount of rent.* (i) Each program participant on whose behalf rental assistance payments are made must pay a contribution toward rent in accordance with section 3(a)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(a)(1)).

(ii) Income of program participants must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a).

(2) *Review.* Recipients or subrecipients must examine a program participant's income initially, and at least annually thereafter, to determine the amount of the contribution toward rent payable by the program participant. Adjustments to a program participant's contribution toward the rental payment must be made as changes in income are identified.

(3) *Verification.* As a condition of participation in the program, each program participant must agree to supply the information or documentation necessary to verify the program participant's income. Program participants must provide the recipient or subrecipient with information at any time regarding changes in income or other circumstances that may result in changes to a program participant's

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contribution toward the rental payment.

§ 578.79 Limitation on transitional housing.

A homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the homeless individuals or families remain in that project longer than 24 months.

§ 578.81 Term of commitment, repayment of grants, and prevention of undue benefits.

(a) *In general.* All recipients and subrecipients receiving grant funds for acquisition, rehabilitation, or new construction must operate the housing or provide supportive services in accordance with this part, for at least 15 years from the date of initial occupancy or date of initial service provision. Recipient and subrecipients must execute and record a HUD-approved Declaration of Restrictive Covenants before receiving payment of grant funds.

(b) *Conversion.* Recipients and subrecipients carrying out a project that provides transitional or permanent housing or supportive services in a structure may submit a request to HUD to convert a project for the direct benefit of very low-income persons. The request must be made while the project is operating as homeless housing or supportive services for homeless individuals and families, must be in writing, and must include an explanation of why the project is no longer needed to provide transitional or permanent housing or supportive services. The primary factor in HUD's decision on the proposed conversion is the unmet need for transitional or permanent housing or supportive services in the Continuum of Care's geographic area.

(c) *Repayment of grant funds.* If a project is not operated as transitional or permanent housing for 10 years following the date of initial occupancy,

HUD will require repayment of the entire amount of the grant used for acquisition, rehabilitation, or new construction, unless conversion of the project has been authorized under paragraph (b) of this section. If the housing is used for such purposes for more than 10 years, the payment amount will be reduced by 20 percentage points for each year, beyond the 10-year period in which the project is used for transitional or permanent housing.

(d) *Prevention of undue benefits.* Except as provided under paragraph (e) of this section, upon any sale or other disposition of a project site that received grant funds for acquisition, rehabilitation, or new construction, occurring before the 15-year period, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient or subrecipient from unduly benefiting from such sale or disposition.

(e) *Exception.* A recipient or subrecipient will not be required to comply with the terms and conditions prescribed under paragraphs (c) and (d) of this section if:

(1) The sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

(2) All the proceeds are used to provide transitional or permanent housing that meet the requirements of this part;

(3) Project-based rental assistance or operating cost assistance from any federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

(4) There are no individuals and families in the Continuum of Care geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

§ 578.83 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, recipients and subrecipients must ensure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of projects assisted under this part. "Project," as used in this section, means any activity or series of activities assisted with Continuum of Care funds received or anticipated in any phase of an undertaking.

(b) *Temporary relocation.* (1) *Existing Building Not Assisted under Title IV of the McKinney-Vento Act.* No tenant may be required to relocate temporarily for a project if the building in which the project is being undertaken or will be undertaken is not currently assisted under Title IV of the McKinney-Vento Act. The absence of such assistance to the building means the tenants are not homeless and the tenants are therefore not eligible to receive assistance under the Continuum of Care program. When a tenant moves for such a project under conditions that cause the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601-4655, to apply, the tenant must be treated as permanently displaced and offered relocation assistance and payments consistent with paragraph (c) of this section.

(2) *Existing Transitional Housing or Permanent Housing Projects Assisted Under Title IV of the McKinney-Vento Act.* Consistent with paragraph (c)(2)(ii) of this section, no program participant may be required to relocate temporarily for a project if the person cannot be offered a decent, safe, and sanitary unit in the same building or complex upon project completion under reasonable terms and conditions. The length of occupancy requirements in § 578.79 may prevent a program participant from returning to the property upon completion (See paragraph (c)(2)(iii)(D) of this section). Any program participant who has been temporarily relocated for a period beyond one year