

(ii) If there is a change in family unit size resulting from such change in family size or composition, the new family unit size must be used to compute the payment standard.

[63 FR 23861, Apr. 30, 1998, as amended at 64 FR 13057, Mar. 16, 1999]

EFFECTIVE DATE NOTE: At 64 FR 13057, Mar. 16, 1999, § 982.505 was amended by revising paragraph (d)(5), effective Apr. 15, 1999. For the convenience of the user, the superseded text is set forth as follows:

§ 982.505 Voucher tenancy or over-FMR tenancy: How to calculate housing assistance payment.

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(d) * * *

(5) If there is a change in family size or composition during the HAP contract term, paragraph (d)(4)(i) of this section does not apply at the next regular reexamination following such change, or thereafter during the term.

§ 982.506 Over-FMR tenancy: HA approval.

(a) *HA discretion to approve.* (1) At the request of the family, the HA may approve an over-FMR tenancy in accordance with this section.

(2) Generally, the HA is not required to approve any over-FMR tenancy. However, the HA must approve an over-FMR tenancy in accordance with this section, if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

(b) *Requirements—(1) Ten percent limit.* The HA may not approve additional over-FMR tenancies if the number of such tenancies currently is ten percent or more of the number of incremental certificate units under the HUD-approved budget for the HA certificate program. "Incremental units" means the number of budgeted certificate units minus any units for which HUD provided tenant-based program funding designated for families previously residing in housing with Section 8 project-based assistance.

(2) *Affordability of family share.* The HA may not approve an over-FMR tenancy unless the HA determines that the initial family share is reasonable. In making this determination, the HA

must take into account other family expenses, such as child care, unreimbursed medical expenses, and other appropriate family expenses as determined by the HA.

(c) *Amount of assistance.* During an over-FMR tenancy, the amount of the housing assistance payment is determined in accordance with § 982.505(c).

(d) *HA administrative plan.* (1) The administrative plan must cover HA policies on approval and administration of over-FMR tenancies.

(2) The plan must state how the HA decides whether to approve an over-FMR tenancy at the family's request (within the program limit stated in paragraph (b)(1) of this section). Such policy may be based on first-come, first-served; on an HA determined system of preferences; or on discretionary case-by-case consideration of individual requests.

§ 982.507 Regular tenancy: How to calculate housing assistance payment.

The monthly housing assistance payment equals the gross rent, minus the higher of:

- (a) The total tenant payment; or
- (b) The minimum rent as required by law.

§ 982.508 Regular tenancy: Limit on initial rent to owner.

(a) *FMR/exception rent limit.* (1) The initial gross rent for any unit may not exceed the FMR/exception rent limit on the date the HA approves the lease.

(2) The FMR/exception rent limit for a family is the lower of:

- (i) The FMR/exception rent limit for the family unit size; or
- (ii) The FMR/exception rent limit for the unit size rented by the family.

(b) *Reasonable rent.* The initial rent to owner may not exceed a reasonable rent as determined in accordance with § 982.503.

§ 982.509 Regular tenancy: Annual adjustment of rent to owner.

(a) *When rent is adjusted.* At each annual anniversary date of the HAP contract, the HA must adjust the rent to owner at the request of the owner in accordance with this section.