



CITY OF ANN ARBOR, MICHIGAN

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ANN ARBOR HOUSING COMMISSION

SECTION 8 PROGRAM COMPLAINTS AND APPEALS POLICY

COMPLAINTS

The Ann Arbor Housing Commission (HA) will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The Commission does require that complaints other than Housing Quality Standards (HQS) violations be put in writing for investigation. Evidence, if available to support the claim, should be submitted with the written complaint. HQS complaints may be reported by telephone.

Complaints from families and owners should first be directed to the Section 8 staff directly assigned to work with them. If the problem cannot be resolved at this level, the problem will be referred to the Housing Programs Manager.

Complaints from the general public, local officials, or law enforcement personnel should be referred to the Housing Program Manager (734-794-6720) and/or HUD Office of Inspector General Hotline at 1-800-347-3735.

APPEALS

WHO IS ENTITLED TO A REVIEW/HEARING?

Applicants who have been denied qualification for a preference, denied listing on the waiting list, determined ineligible for the program, denied issuance of a certificate or voucher. Special provisions apply for applicants denied assistance for citizen or eligible immigrant status.

Current program participants regarding (1) determination of family's annual or adjusted income and computation of the housing assistance payment, (2) appropriate utility allowance schedule, (3) family unit size determined under Commission subsidy standards, (4) determination to terminate a family's Family Self-Sufficiency (FSS) Contract, withhold supportive services or propose forfeiture of the family's escrow account or (7) determination to pay an owner's claim for damages, unpaid rent or vacancy loss.

WHAT IS NOT SUBJECT TO REVIEW/HEARING?

Informal reviews are not required for established policies and procedures and HA determinations such as:

- Discretionary administrative determinations;
- A determination of the family unit size under the HA subsidy standards;
- Refusal to extend or suspend a Voucher;
- Disapproval of lease;
- Determination that unit is not in compliance with HQS; or
- Determination that unit is not in accordance with HQS due to family size or composition

PROCEDURES FOR REVIEWS AND HEARINGS

Reviews for applicants only

A request for an Informal Review must be received, in writing, by the close of the business day, no later than ten (10) business days from the date of the HA's notification of denial of assistance. The informal review will be scheduled within ten (10) to thirty (30) calendar days from the date the request is received. The Review may be conducted by the Hearing Officer. In the case that the Hearing Officer initiated the review, it may be conducted by the Housing Program Manager, the Executive Director or his/her designee.

The applicant will be given the option of presenting oral or written objections to the decision. Both the HA and the family may present evidence and witnesses. The HA and the family may use an attorney or other representative to assist them at their own expense.

A Notice of the Review findings will be provided, in writing, to the applicant within ten (10) to thirty (30) business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

Informal Hearings for participants only

When the HA makes a decision regarding the eligibility, termination and/or the subsidy amount, applicants, participants, and landlords (participants only) must be notified, in writing. A request for an Informal Review must be received, in writing, by the close of the business day, no later than ten (10) business days from the date of the HA's notification of denial of assistance. It is the participant's responsibility to make arrangements with their landlord for housing beyond the effective date. The notification to applicants, participants and landlords indicates that assistance will not be provided beyond the effective date. The family's right to request a hearing does not negate the effective date of the decision. The HA will give the family notice of such determination which will include:

- The proposed action or decision of the HA and the date it will take place;
- The family's right to an explanation of the basis for the HA's decision;
- The procedure for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing;
- To whom the hearing request should be addressed; and
- A copy of the HA's hearing procedures.

It is the HA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the HA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the HA receives a request for an informal hearing, a hearing shall be scheduled within ten 10 business days. Notification of informal hearings may require ten (10) business days to thirty (30) calendar days due to extenuating circumstances and/or requests for additional time by legal representatives. The notification will contain:

1. The date and time of the hearing;
2. The location where the hearing is to be held;
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense; and
4. The right to view any documents or evidence in the possession of the HA upon which the HA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing.

The family may request to reschedule a hearing only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the HA within twenty-four (24) hours, excluding weekends and holidays. The HA will reschedule the hearing only if the family can show good cause for the failure to appear.

RIGHTS OF FAMILIES AND THE ANN ARBOR HOUSING COMMISSION IN THE HEARING PROCESS

Families have the right to:

- Present written or oral objections to the HA's determination;

- Examine the documents that are the basis for the HA's action, and all documents submitted to the Hearing Officer;
- Copy any relevant documents at their expense;
- Present any information or witnesses pertinent to the issue of the hearing;

Families have the right to, continued:

- Request that HA staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of the documents relevant to the hearing, the HA will make copies for the family and assess a charge of \$0.50 per page copied. In no case will the family be allowed to remove the file from the HA's office.

In addition to other rights contained in the Administrative Plan, the Ann Arbor Housing Commission may:

- Present evidence and any information pertinent to the issue of the hearing;
- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have its attorney present; and
- Have staff persons and other witness familiar with the case present.

CONDUCTING THE HEARING

The Informal Hearing shall be conducted by the Hearing Officer appointed by the HA who is neither the person who made or approved the decision, nor a subordinate of that person. The Hearing Officer is contracted by the AAHC.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" include records and regulations.

The informal hearing may be audio tape recorded.

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later time, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the HA shall take effect and another hearing will not be granted.

HEARING DECISIONS

The Hearing Officer will determine whether the action, inaction, or decision of the HA is legal in accordance with HUD regulations and the HA's Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings/decisions shall be provided, in writing, to the HA and the family within fourteen (10) business days. Notification of hearing finding/decisions may require ten (10) to thirty (30) calendar days due to extenuating circumstances and/or requests for additional time by legal representatives. The hearing findings/decisions shall include the following:

- A clear summary of the decision and reasoning for the decision;
- If the decision involves money owed, the amount owed; and
- The date the decision goes into effect.

The HA is not bound by hearing decisions which:

- Concern matters in which the HA is not required to provide an opportunity for a hearing;
- Conflict with or contradict HUD regulations or requirements;
- Conflict with or contradict Federal, State or local laws; or
- Exceed the authority of the person conducting the hearing.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

HEARING AND APPEAL PROVISIONS FOR “RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS”

Assistance to the family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to the receipt of the decision on the Immigration and Naturalization Service (INS) Appeal.

Assistance to a family may not be terminated or denied while the HA hearing is pending but assistance to an applicant may be delayed pending the HA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE System and manual search do not verify the claim, the HA notifies the applicant or participant within ten (10) business days of their right to appeal to the INS within thirty (30) calendar days or to request an informal hearing with the HA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the HA a copy of the appeal and proof of mailing or the HA may proceed to deny or terminate. The time period to request an appeal may be extended by the HA for good cause.

The request for an HA hearing must be made within ten (10) business days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within ten (10) business days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in section d of this chapter for both applicants and participants. If the Hearing Officer decides that the individual is not eligible, and there are no other eligible family members, the HA will:

1. Deny the applicant family;
2. Defer termination if the family is a participant and qualifies for deferral; or
3. Terminate the participant if the family does not qualify for the deferral;

If there are eligible members in the family, the HA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.
- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES

When applicants are denied placement on the waiting list, or the HA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal hearing review process.

LEGAL SERVICES OF SOUTH CENTRAL MICHIGAN

You may wish to contact Legal Services of South Central Michigan for free legal advice regarding your rights and the legal process. They can be reached at: Legal Services of South Central Michigan 420 N. Fourth Avenue Ann Arbor, MI 48104, PHONE: 734.665.6181, FAX: 734.665.2974

ANN ARBOR HOUSING COMMISSION

HOUSING CHOICE VOUCHER INFORMAL HEARING REQUEST FORM

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

Print Name: _____ **Date:** _____

Address: _____ **Phone:** _____

E-Mail Address: _____

Complaint: On the lines below, please check what action or inaction the Ann Arbor Housing Commission applied against you or your household that you believe to be incorrect or in violation of program rules or policy, or that you wish to have overturned and why. You may provide information pertinent to the remedy you are requesting i.e. letter of termination or denial of assistance.

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- INCORRECT RENT AMOUNT:* A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- INCORRECT UTILITY REIMBURSEMENT:* A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- INCORRECT VOUCHER SIZE:* A determination of the family unit size under the PHA's subsidy standards, or determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's subsidy standards
- A determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions/failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account

Signature

Date

For Housing Commission Use: Date: _____	Occupancy Specialist: _____ <input type="checkbox"/> Approved <input type="checkbox"/> Denied (Reason): _____
Informal Hearing is scheduled for: _____ Date: _____ Time: _____ Copy Notice to Legal Services: <u>Yes</u> <u>No</u>	
Appt Confirmed by Phone: <u>Yes</u> <u>No</u> Date Confirmed: _____ Time: _____	