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## CHAPTER 7. RECERTIFICATION, UNIT TRANSFERS, AND GROSS RENT CHANGES

### 7-1 Introduction

- A. As discussed in Chapter 5, a family's eligibility for assistance is based on its income, as determined in accordance with program rules. Changes in income or family composition can affect the amount of assistance a tenant is eligible to receive and, therefore, the amount the tenant pays for rent.
- B. Because a tenant's income and family composition can change over time, program requirements establish procedures for addressing these changes. Such changes are examined and implemented through the recertification process. Under program requirements, tenants have responsibilities for providing timely information about these changes. Similarly, owners have responsibilities for promptly reviewing and verifying this information and for making changes in assistance payments or tenant rent consistent with program requirements. This chapter describes these requirements and procedures.
- C. Further, changes in the family size or composition of an existing tenant household may mean the current unit is no longer appropriate in size and a transfer to a suitable unit is needed. This chapter describes the requirements for determining when transfers are needed based on changes in family composition and the availability of suitable units.
- D. Finally, when owners receive approval from HUD for changes to the gross rents for a property, there are several occupancy-related actions that owners must take. These responsibilities are described in this chapter.
- E. The chapter is organized into four sections:
- **Section 1: Annual Recertification** describes the program requirements and procedures for performing the yearly verification and recertification of family composition and income. Owners must verify family composition and income in order to recalculate the tenant's Total Tenant Payment (TTP) and tenant rent and the assistance payment provided by HUD.
  - **Section 2: Interim Recertification** discusses the program requirements and procedures for performing interim recertifications when a tenant experiences a change in income or family composition between annual recertifications.
  - **Section 3: Unit Transfers** presents the program requirements and procedures that owners must follow when an existing tenant transfers to a different unit in the property.
  - **Section 4: Gross Rent Changes** describes the required procedures that owners must follow before making changes in unit rents or utility allowances.

**7-2 Key Terms**

- A. There are a number of technical terms used in this chapter that have very specific definitions established by federal statute or regulations, or by HUD. These terms are listed in Figure 7-1, and their definitions can be found in the Glossary to this handbook. It is important to be familiar with these definitions when reading this chapter.
  
- B. The terms “disability” and “persons with disabilities” are used in two contexts – for civil rights protections, and for program eligibility purposes. Each use has specific definitions.
  - 1. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply.
  - 2. When used in the context of eligibility under multifamily subsidized housing programs, the program eligibility definitions apply.

**NOTE:** See the Glossary for specific definitions and paragraph 2-23 for an explanation of this difference.

**Figure 7-1: Key Terms**

<ul style="list-style-type: none"><li>• Annual income</li><li>• Assets</li><li>• Assistance payment</li><li>• Assisted tenant</li><li>• Contract rent</li><li>• Deductions</li><li>• Family composition</li></ul>	<ul style="list-style-type: none"><li>• Gross rent change</li><li>• Market rent</li><li>• Recertification anniversary date</li><li>• Total tenant payment (TTP)</li><li>• Unit transfer</li><li>• Utility allowance</li></ul>
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## Section 1: Annual Recertification

### 7-3 Key Regulations

The following are the key regulatory citations pertaining to Section 1: Annual Recertification. The citations and their titles are listed below.

- A. 24 CFR 5.657 Section 8 Project-based Assistance Programs: Re-examination of Family Income and Composition
- B. 24 CFR 880.603, 884.218, 886.124, 886.324, 891.410, 891.610, and 891.750 Re-examination of Family Income and Composition
- C. 24 CFR 5.659 Family Information and Verification

### 7-4 Key Requirements

- A. To ensure that assisted tenants pay rents commensurate with their ability to pay, HUD requires the following:
  - 1. Owners must conduct a recertification of family income and composition at least annually. Owners must then recompute the tenants' rents and assistance payments, if applicable, based on the information gathered.
  - 2. Tenants must supply information requested by the owner or HUD for use in a regularly scheduled recertification of family income and composition in accordance with HUD requirements.
  - 3. Tenants must sign consent forms **\*\*and asset declaration forms\*\***, and owners must obtain third-party verification of the following items and document them in the tenant file (or document why third-party verification was unavailable). (See Chapter 5, Section 3, for more information about verification of income.)
    - a. Reported family annual income;
    - b. The value of family assets;
    - c. Expenses related to deductions from annual income; and
    - d. Other factors that affect the determination of adjusted income.
  - 4. At each **\*\*annual\*\*** recertification, the owner must provide the tenant with a copy of the HUD fact sheet describing how the tenant's rent is **\*\*determined\*\***. These fact sheets are included in **Appendix 14**.
  - 5. **\*\*Owners have the authority to require a criminal background check on current tenants at recertification. Owners who adopt the policy of conducting criminal background checks at recertification must conduct a criminal background check on all tenants at recertification. If the criminal**

background check indicates that the tenant is in violation of the provisions of the lease, the owner may evict the tenant in accordance with the lease and the owner's standards for termination of tenancy. The owner must:

- a. Notify the household of the proposed action based on the information.
  - b. Must provide the subject of the criminal record and the tenant with a copy of the information and an opportunity to dispute the accuracy and relevance of the information obtained from any law enforcement agency. \*\*
6. Owners must perform annual recertifications on any resident of a Section 236 project paying less than the Section 236 market rent, and on any resident of a Section 221(d)(3) BMIR project paying the BMIR rent. Tenants of Section 236 and Section 221(d)(3) BMIR projects \*\* must be supported in the Tenant Rental Assistance Certification System (TRACS) with a submission of the required \*\*HUD-50059\*\*.. (See Chapter 9, Section 1, about the Tenant Rental Assistance Certification System for more information on submitting information through TRACS.)

**NOTE:** Section 236 and Section 221(d)(3) BMIR cooperatives must enforce annual recertifications for both current and new members.

- B. Owners do not have to perform annual recertifications for individual tenants who are paying market rent as described below:
1. Tenants paying the contract rent or market rent and living in a unit covered by a Section 8, RAP, Rent Supplement, or PAC housing assistance payment contract, unless the tenants request an initial certification to determine their eligibility to receive program assistance.
  2. Tenants of a Section 236 project paying the Section 236 market rent established for the property, unless the tenants request an initial certification to determine their eligibility to pay less than the market rent.
  3. Tenants of a Section 221(d)(3) BMIR project paying 110% of the BMIR rent established for the property, unless the tenants request an initial certification to determine their eligibility to pay the BMIR rent.
- C. If a tenant in a property covered by this handbook is receiving rental assistance through the Section 8 Housing Choice Voucher Program, the Public Housing Authority (PHA) administering the voucher completes the annual recertification. Owners are not responsible for completing recertification activities but must cooperate with PHA staff in providing needed information.
- D. When a change in family composition is reported in \*\*Section 202/8 projects, adult children are eligible to move in after initial occupancy only if they are essential for the care or well-being of the elderly tenant(s). They are considered a part of the family and their income must be counted. Owners should require adult children to sign a release form relinquishing any future rights to the unit as

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a remaining member of the tenant family, as they qualify for occupancy only as long as the individual needing the supportive services is in occupancy.\*\*

- E. When a change in family composition is reported in \*\*Section 202 PRAC and Section 811 projects\*\*, occupancy by adult children is subject to the following restriction. Adult children are not eligible to move into a unit after initial occupancy unless they are performing the functions of a live-in aide and are classified as a live-in aide for eligibility purposes. \*\*See paragraph 3-6 E.3 for eligibility requirements for a live-in aide.\*\*

**Figure 7-2: Comparison of Live-in Aide and Adult Child in 202/8 and 202 PRAC projects**

	202/8	202 PRAC
<b>Admission to household after initial occupancy:</b>		
Live-in aide	Yes	Yes
Adult child	Yes – if needed for essential care of family member	Yes - Only if performing function of live-in aide
<b>Income counted:</b>		
Live-in aide	No	No
Adult child	Yes	No
<b>Counted as member of family:</b>		
Live-in aide	No	No
Adult child	Yes	No
<b>Right to remain in unit: (See paragraphs 7-4.D and 3-6.E.3 for lease addendum requirements.)</b>		
Live-in aide	No	No
Adult child	No	No

## 7-5 Timing of Annual Recertifications

### A. Key Requirement

Annual recertifications must be completed by the tenant's recertification anniversary date.

### B. Determining Recertification Anniversary Dates

1. The recertification anniversary date is the first day of the month in which the tenant moved into the property. A tenant moving in with no assistance payment, such as a Section 236 or a Section 221(d)(3) BMIR tenant, who later begins receiving assistance payments, will have his or her annual recertification date changed to the first day of the month that the tenant began receiving assistance from HUD.

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2. The recertification anniversary date does not change if a tenant transfers from one unit to another unit at the same property.

**C. HUD Approval of Alternative Recertification Anniversary Dates**

With the approval of the HUD Field Office or the Contract Administrator, owners may establish alternative recertification anniversary dates. Examples of acceptable reasons for requesting alternative dates include the following:

1. In properties for the elderly and/or the disabled, owners may request that the recertification anniversary date be based on the issuance of the cost-of-living adjustments for the Social Security or other assistance programs.
2. For coordination purposes, owners may request that the recertification anniversary date for all tenants be based on the anniversary date of the assistance payment contract for the property.
3. For coordination purposes, owners may request that the recertification anniversary date be assigned by building or unit number to better coordinate recertification and inspection activities.

### Examples – Recertification Anniversary Dates

#### New Tenants

If a family moves in on September 1, its anniversary date is September 1.

If a family moves in on September 15, its anniversary date is September 1.

If a family moves in on September 30, its anniversary date is September 1.

#### Existing Tenants Who Receive a New Form of Assistance

The Johnson family moves in on April 15 and pays the market rent. During the following January, the family qualifies to receive Section 8 assistance at the property and begins receiving rental assistance on February 1. The owner must set the Johnson's anniversary date at February 1.

The Murray family moves into a Section 236 project on April 15 and pays the Section 236 market rent established for the property. As a market renter, the Murrays are not required to complete annual recertifications. During October of the following year, the Murrays request that the owner complete an initial certification to determine their eligibility for paying less than the market rent. The family begins paying \$42 less than the market rent on November 1. The new anniversary date is November 1.

The Chiu family moves into a Section 236 project on April 15 and pays the Section 236 basic rent. The owner must set the family's anniversary date at April 1. During the following July, the Finnigans qualify for one of the RAP slots at the property and begin to receive rental assistance on August 1. The owner must set a new anniversary date for the Finnigans of August 1.

The Padilla family moves into a BMIR project on June 15 and pays the BMIR rent. The owner must set the anniversary date for the family at June 1. During August of the following year, the Riddles qualify for the Rent Supplement Program at the property and begin to receive rental assistance on September 1. The owner must set a new anniversary date for the Riddles of September 1.

The Kreutz family moves into a BMIR project on July 15 and pays the BMIR rent. The owner must set the anniversary date for the family at July 1. During the annual recertification process two years later the owner determines the Kreutz's income to be more than 110% of the income limit and the family begins paying 110% of the BMIR rent. During the following December, the Kreutzes request that the owner complete a new certification to determine their eligibility to pay the BMIR rent. The recertification results show that they are eligible and the family begins paying the BMIR rent on January 1. The owner must set a new anniversary date for the Kreutzes at January 1.

## 7-6 Overview of Annual Recertification Procedures

It is the owner's responsibility to process all recertifications in a timely manner. HUD Headquarters will terminate assistance payments if a new recertification is not submitted within 15 months of the previous year's recertification anniversary date. HUD has instructed Contract Administrators to terminate assistance payments to an owner if a new annual recertification has not been completed and submitted through TRACS within 15 months after the previous year's anniversary date. \*Owners must repay, by making an adjustment to the voucher, the assistance collected for the 3-month period from the date the annual recertification should have been effective through the end of the 15<sup>th</sup> month when assistance was terminated. Once the new certification is processed,\* owners must follow the guidance in paragraph 7-8 for determining the effective date for changes in the TTP, tenant rent and assistance payment when the recertification is delayed.

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- A. Owners and tenants must complete the applicable steps listed in Figure \*\*7-3\*\*.
  - B. Owners must maintain a tracking system to facilitate timely completion of recertifications.
  - C. To enable owners to give the tenant the required 30-day advance notice of any increase in the TTP or tenant rent, Steps 1 through 6 in Figure \*\*7-3\*\* should be completed at least 35 days before the recertification anniversary date.

## 7-7 Notices to Tenants

### A. Overview

Owners must inform tenants, through written notices, about the tenants' responsibility to provide information about changes in family income or composition necessary to properly complete an annual recertification. These notices include information on the recertification process, requirements, and timelines.

### B. Description of Required Notices

Owners must provide tenants with the Initial Notice and subsequent reminder notices as specified below during the annual recertification process. Figure \*\*7-4\*\* describes the timing of each notice.

**REMINDER:** Notices to a tenant with a disability must be in a form accessible to the tenant (e.g., in Braille or audio form for a tenant with a vision impairment).  
\*\*Notices may also need to be conveyed in languages other than English for LEP persons in accordance with HUD guidance.\*\*

1. Initial Notice. Upon initial signing of the lease and at each annual recertification, the owner must provide an Initial Notice to the tenant. This notice serves to ensure that tenants understand that they will need to report to the property's management office by the specified date the following year to prepare for their next recertification.

**\*\*Figure 7-3\*\*:** Recertification Steps

Action	Responsible Party
1. Provide Initial Notice to tenant about next year's annual recertification. (See paragraph 7-7.)	Owner
2. Provide First Reminder Notice to tenant. If needed, provide up to two subsequent reminder notices. (See paragraph 7-7.)	Owner
3. If not already established by the owner, schedule a recertification interview with the property owner or manager, collect information, as necessary, to verify income and family composition, and obtain signatures on consent forms to allow verification of income and other relevant characteristics from outside sources.	Tenant
4. Conduct recertification interview.	Owner
5. Verify family income, assets, and allowances following the procedures described in Chapter 5, Section 3, for more information about verification of income. Ensure that the tenant file includes citizenship documentation, if applicable, for all family members and documented social security numbers for all family members 6 years of age or older.	Owner
6. Enter all required data into the owner's or service bureau's TRACS software package for calculation of the new TTP/ tenant rent and assistance payment and conversion to an electronic file ready for submission. (See Chapter 9, Section 1, for more information on TRACS.)	Owner
7. Notify the tenant of any change in the TTP or tenant rent resulting from the recertification. For rent increases, a 30-day notice must be provided.	Owner
8. Obtain the original signature of the head, co-head, spouse and all other adult members of the household on the HUD-50059 with the required data electronically generated by owner's (or service bureau's) software package. Owner representative signs the **HUD-50059** and provides the tenant with a copy. Only after the tenant and owner representative sign the **HUD-50059**, transmit electronic file to the Contract Administrator or HUD.	Owner
9. Provide the tenant with the Initial Notice for next year's annual recertification (see paragraph 7-7 B.1).	Owner

**Figure \*\*7-4\*\*: Recertification Notice Due Dates  
(Step 2 from Figure \*\*7-3\*\*)**

<b>Notice</b>	<b>Date the Notice Is Due to the Tenant</b>	<b>Sample Timeline</b> Assumes a December 1 Recertification Anniversary Date
<b>Initial Notice for Upcoming Recertification</b>	At initial lease signing and at every annual recertification thereafter. (Obtain tenant signature acknowledging receipt.)	The initial notice should have been signed by the tenant at the previous year's certification/recertification date, <i>December 1</i> .
<b>First Reminder Notice</b>	120 days prior to the tenant's recertification anniversary date.	The first reminder notice should be sent out by <i>August 1</i> .
<b>Second Reminder Notice</b> <i>(If no response to First Notice.)</i>	At least 90 days prior to the tenant's recertification anniversary date.	The second reminder notice should be sent out by <i>September 1</i> .
<b>Third Reminder Notice</b> <i>(If no response to Second Notice.)</i>	At least 60 days prior to the tenant's recertification anniversary date.	The third reminder notice should be sent out no later than <i>October 1</i> .

- a. The Initial Notice must do the following:
  - (1) Refer to the requirements in the HUD model lease regarding the tenant's responsibility to recertify annually.
  - (2) Specify the cutoff date (the 10<sup>th</sup> day of the 11<sup>th</sup> month after the last annual recertification) by which the tenant must contact the owner and provide the required information and signatures necessary for the owner to process the recertification.
- b. The tenant must sign and date the initial notice to acknowledge receipt; the owner or manager must sign and date the notice as a witness.
- c. The owner must maintain the notice with original signatures in the tenant's file and provide a copy of the signed notice to the tenant.
- d. A sample Initial Notice is included as Exhibit 7-1 at the end of this chapter.

**Example – Initial Recertification Notice Procedures**

- The Singhs move into a project and begin receiving Section 8 assistance on 9/1/2002. The owner establishes a 9/1 anniversary date for the Singhs.
- When the Singhs sign the lease, the owner provides the head of the family with an Initial Notice. In the Initial Notice, the owner states that the Singhs must report for their first annual recertification by 7/10/2003.
- When the Singhs sign all forms necessary to complete their annual recertification during the summer of 2003, the owner provides the head of the Singh household with another Initial Recertification Notice. In this Initial Notice, the owner states that the Singhs must report for their next annual recertification by 7/10/2004.

2. First Reminder Notice.

- a. Owners must provide tenants with a reminder notice at least 120 days prior to the recertification anniversary date.
- b. The First Reminder Notice must do the following:
  - (1) Refer to the requirements in the HUD model lease regarding the tenant's responsibility to recertify annually.
  - (2) State the name of the staff person at the property to contact about scheduling a recertification interview, the contact information for this person, and how the contact should be made. The owner may propose an interview date as long as the tenant has the option to reschedule the interview for a more convenient date and time.
  - (3) Give the location, days, and office hours that property staff will be available for recertification interviews.
  - (4) List the information that the tenant should bring to the interview.
  - (5) State the cutoff date by which the tenant must contact the owner and provide the information and signatures necessary for the owner to process the recertification.
  - (6) State that if the tenant responds to the owner after the specified cutoff date (10<sup>th</sup> day of the 11<sup>th</sup> month after the last annual recertification), the owner will process the annual recertification but will not provide the tenant 30 days notice of any resulting rent increase.
  - (7) State that if the tenant fails to respond before the recertification anniversary date, the tenant will lose the assistance and will be responsible for paying the \*\*Section 236\*\* market rent in a 236 project, 110% of BMIR rent or

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the full contract rent in a Section 8 or **\*\*Section 202 PAC\*\*** project. In a Section 202 PRAC or Section 811 PRAC project, the tenant may be evicted for noncompliance with the lease requirement to recertify annually.

- c. Owners must maintain a copy of this notice in the tenant file documenting the date the notice was issued.
- d. A sample First Reminder Notice is included as Exhibit 7-2 at the end of this chapter.

3. Second Reminder Notice.

- a. If the tenant fails to respond within 30 days of the First Reminder Notice, the owner must provide a Second Reminder Notice approximately 90 days prior to the tenant's recertification anniversary date informing the tenant that his/her recertification information is due.
- b. The Second Reminder Notice must provide the tenant with all of the information given in the First Reminder Notice. (See subparagraph B-2 b above.)
- c. Owners must maintain a copy of this notice in the tenant file documenting the date the notice was issued.
- d. A sample Second Reminder Notice is included as Exhibit 7-3 at the end of this chapter.

4. Third Reminder Notice.

- a. If the tenant does not respond to the Second Reminder Notice before 60 days prior to the recertification anniversary date, the owner must provide the tenant a Third Reminder Notice no later than 60 days prior to the anniversary date. This notice also serves as a 60-day notice to terminate assistance, and as a 60-day rent increase notice. (See Chapter 8 for information on the termination of assistance.)
- b. The Third Reminder Notice must do the following:
  - (1) Provide the tenant with all of the information given in the First Reminder Notice. (See subparagraph B-2 b above.)
  - (2) Specify the amount of rent the tenant will be required to pay if the tenant fails to provide the required recertification information by the recertification anniversary date and state that this rent increase will be made without additional notice.

- (3) In a Section 202 PRAC or 811 PRAC project, state that the tenant may be evicted for noncompliance with the lease requirement to recertify annually.

**NOTE TO OWNERS:** Eviction should be pursued only as a last measure for enforcing compliance. Prior to any eviction proceedings, owners must make every effort to contact the disabled and frail elderly to be sure the requirements of the recertification process are communicated in a manner that is comprehended by the tenant.

- c. Owners must maintain a copy of this notice in the tenant file documenting the date the notice was issued.
- d. A sample Third Reminder Notice is included as Exhibit 7-4 at the end of this chapter.

## 7-8 Effective Dates of Changes in Assistance Payment, Total Tenant Payment, and Tenant Rent

### A. Overview

In general, recertification processing should be complete by the recertification anniversary date. However, there may be circumstances when delays are encountered while processing a recertification that prevent its completion in time to provide a resident with a notice 30 days prior to the anniversary date. HUD has established specific procedures regarding the timing of changes in the TTP, tenant rent, and assistance payment when the recertification is delayed.

### B. Timely Completion of Recertification Process

1. Timely completion of the recertification process occurs when all steps in Figure \*\*7-3\*\* are completed prior to the tenant's recertification anniversary date. Timely completion includes issuing the required 30-day notice of a rent change and timely delivery of the three reminder notices as shown in Figure \*\*7-4\*\* . Exhibit 7-5 provides a Sample Recertification Interview and Verification Record that can help facilitate timely completion of the recertification process.
2. Changes to the TTP, tenant rent, and assistance payment all take effect on the recertification anniversary date. Exhibit 7-6 includes a sample notification of a rent increase resulting from recertification processing.

**Example – Timely Recertification of a Tenant**

- Recertification anniversary date is 9/1.
- Owner sends tenant First Reminder Notice on 5/1.
- \*\*Owner sends tenant Second Reminder Notice on 6/1.  
\*\*
- Tenant reports for recertification interview on 6/25.
- Owner completes processing of recertification and provides 30-day notice of rent increase to the tenant on 7/25.
- Assistance payment, TTP, and tenant rent change on 9/1.

**C. Timely Tenant Response, But Short Processing Time**

1. This situation can occur as follows:
  - a. The owner provides the First, Second, and Third Reminder Notices per HUD requirements; and
  - b. The tenant reports for the recertification interview just prior to the 10<sup>th</sup> day of the 11<sup>th</sup> month after the last annual recertification. The owner is then responsible for completing the verification process in time to give the tenant a 30-day advance notice of any rent change. In order to complete the verification processing and provide the notice in time to have the new rent take effect by the recertification anniversary date, the owner may pursue alternative forms of verification, including review of documents provided by the tenant. Third-party verification must continue to be pursued, but the processing of the recertification can be completed using other sources of verification.
2. Should the owner fail to complete the verification process in time to give the tenant a 30-day advance notice of a rent increase, the tenant's rent increase may not take effect until the 30-day rent increase notice period has expired. The HAP change, however, will be effective on the recertification anniversary date.

If the tenant's rent is decreasing, no 30-day advance notice is required. Both the tenant's rent and the HAP will change on the recertification anniversary date.

**Example – Timely Tenant Response, But Delayed Verification Processing**

- Recertification anniversary date is 9/1.
- Owner sends out all notices in compliance with the requirements on 5/1, 6/1 and 7/1.
- Tenant responds on 7/8.
- Owner completes processing on 8/3.
- Assistance payment changes on 9/1.
- Rent increase is effective on 10/1.

**D. Late Response/Processing of Recertifications****1. Delays in processing due to owner or third-party action.**

a. This situation can occur as follows:

- (1) The owner fails to provide timely recertification reminder notices per HUD requirements; or
- (2) The owner has adequate time, but fails to complete verification and recertification processing procedures 30 days before the recertification anniversary date, and fails to provide the required 30-day notice for a rent increase to take effect on the recertification anniversary date.

b. Changes in the assistance payment take effect on the recertification anniversary date.

c. Changes in the TTP and tenant rent are effective as follows:

- (1) On the recertification anniversary date, if the tenant rent decreases as a result of the recertification; or
- (2) On the first of the month following a 30-day notice period, if the tenant rent increases as a result of the recertification.

**Example – Owner or Third-Party Causes  
Delays in Recertification Procedures**

- Recertification anniversary date is 9/1.
- Owner sends First Reminder Notice on 8/1.
- Tenant reports for recertification interview on 8/15.
- Owner finishes processing recertification and provides the tenant with rent increase notice on 9/15.
- Assistance payment changes take effect on 9/1.
- TTP and tenant rent changes take effect on 11/1.

2. Delays in processing due to late tenant response.

a. This situation can occur as follows:

- (1) The owner provides all three recertification reminder notices in accordance with HUD requirements; and
- (2) The tenant reports for the recertification interview and provides information and signatures after the cutoff date (i.e., after the 10<sup>th</sup> day of the 11<sup>th</sup> month following the last annual recertification), but before the recertification anniversary date.

b. The owner processes the annual recertification.

- (1) Changes in the TTP/tenant rent and assistance payment take effect on the recertification anniversary date.
- (2) As established in the Model Lease, the third reminder notice fulfills the requirement for a 30-day notice of rent increase effective on the anniversary date.

c. In all cases where the tenant reports for recertification after the 10<sup>th</sup> day of the 11<sup>th</sup> month after the last annual recertification but before the recertification anniversary date (as described in subparagraph D-2 a above), all adjustments in assistance payments and the tenant's rent are made retroactive to the recertification anniversary date.

**Example – Tenant Delays Recertification Process**

- Recertification anniversary date is 9/1.
- Owner provides all three recertification reminder notices per HUD requirements.
- Tenant reports for recertification interview on 8/28.
- Owner finishes processing recertification and notifies the tenant on 9/20.
- New assistance payment, TTP, and tenant rent are retroactive to 9/1.
- The owner does not provide the tenant with a 30-day rent increase notice.

3. Tenant responds after recertification anniversary date. Tenant is out of compliance.

a. This situation occurs when:

- (1) The owner provides all three recertification reminder notices per HUD requirements; and
- (2) The tenant reports for the recertification interview on or after the recertification anniversary date.

b. On the recertification anniversary date, the tenant must begin paying the market rent.

**NOTE:** In a Section 202 PRAC or 811 PRAC project, the tenant will pay the greater of operating rent or 30% of income until eviction procedures are completed.

**\*\*NOTE:** In a Section 236 project, the tenant must pay the Section 236 market rent. In a BMIR project, the tenant must pay the BMIR market rent. \*\*

c. Assistance **\*\*should\*\*** be reinstated if:

- (1) Assistance is available at the property;
- (2) The tenant submits the required information; and
- (3) The owner determines that the tenant qualifies for assistance.

d. The new TTP/tenant rent and assistance payment take effect the first day of the month following the date on which the tenant reported for the certification. The tenant must pay the market rent until this date. If the tenant fails to report for the recertification interview and fails to pay market rent, or make arrangements to pay, the owner is obligated to evict for nonpayment.

### **Example – Tenant Out of Compliance**

- Recertification anniversary date is 9/1.
- Owner provides all three recertification notices per HUD requirements.
- Tenant does not respond to notices. Rent raised to market rate effective 9/1.
- Tenant responds 9/10.
- Owner completes processing of income certification on 9/30.
- New rent TTP/tenant rent effective 10/1 (reduced from market rent if assistance reinstated).

### **Example – Tenant Out of Compliance in 202 or 811 PRAC Project**

- Recertification anniversary date is 9/1.
- Owner provides all three recertification notices per HUD requirements.
- Tenant does not respond to notices. Eviction process is initiated. Rent is raised to the greater of operating rent or 30% of income until eviction completed.
- Tenant responds 9/10. Eviction process stopped.
- Owner completes processing of income certification on 9/30.
- New rent TTP/tenant rent effective 10/1 (rent based on 30% of income reinstated).

- e. If the owner completes the income certification processing during the month following the date on which the tenant reported for the certification, the new TTP/tenant rent and assistance payment still take effect on the first day of the month following the date on which the tenant reported for the certification. When the owner processes the rent change and assistance payment, they are retroactive to this effective date.
- f. The owner may not evict the tenant for failure to pay market rent after the tenant reports for the interview and the owner is processing the certification.

**Example – Tenant Out of Compliance and  
Recertification Completed in Second Month Following  
Tenant Response**

- Recertification anniversary date is 9/1.
- Owner provides all three recertification notices per HUD requirements.
- Tenant does not respond to notices. Rent raised to market rate effective 9/1.
- Tenant responds on 9/30.
- Recertification not complete 10/1.
- Owner completes recertification on 10/20.
- New TTP/tenant rent retroactive to 10/1.

- g. The tenant's recertification date changes to the first day of the month the property begins receiving assistance again for the tenant. The tenant's recertification is processed as an initial certification.
4. Extenuating circumstances when tenant is out of compliance. When a tenant fails to provide the required recertification information by the recertification anniversary date, an owner must inquire whether extenuating circumstances prevented the tenant from responding prior to the anniversary date. \*\*If the tenant is a person with disabilities, the owner must consider extenuating circumstances when this would be required as a matter of reasonable accommodation.\*\*
- a. Extenuating circumstances. These are circumstances beyond the tenant's control. Examples of extenuating circumstances include, but are not limited to:
- (1) Hospitalization of the tenant.
  - (2) Tenant out of town for a family emergency (such as the death or severe illness of a close family member).
  - (3) Tenant on military duty overseas.
- b. Inquiring about extenuating circumstances.
- (1) At the time the tenant submits the required recertification information, the owner must inquire whether extenuating circumstances prevented the tenant from submitting the information prior to the recertification anniversary date.
  - (2) If the tenant indicates that extenuating circumstances were present, the tenant must promptly provide the owner with evidence of their presence.

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- c. Determining whether extenuating circumstances were present. When a tenant provides evidence of extenuating circumstances, the owner must determine whether the information provided shows that the circumstances meet the condition described above in subparagraph a.
  - d. Notice of decision. The owner must provide the tenant with a written notice of the decision. The notice must also inform the tenant of his/her right to appeal the owner's decision if the owner determines that extenuating circumstances were not present.
  - e. Appeal to the owner. If the owner denies extenuating circumstances, he or she must provide the tenant with an opportunity, within 10 days of notification, to meet with the owner or designated representative to appeal the decision to raise the tenant rent to market rent. The owner has an obligation to arrange for a person, who was not part of the original determination, to conduct the appeal meeting. The tenant may have representation at the meeting, may present information for consideration, and may respond to the information presented by others.
  - f. Extenuating circumstances NOT present. If the owner determines that extenuating circumstances were not present, follow the procedures in subparagraph D.3 above for completing processing of the tenant's information, determining whether assistance can be reinstated, and establishing effective dates.
5. Effective date of TTP/tenant rent, assistance, recertification anniversary when extenuating circumstances were present. If the owner determines that extenuating circumstances were present:
    - a. There is no change in the recertification anniversary date; and
    - b. The TTP/tenant rent and the assistance payments determined based on the recertification information provided by the tenant are effective retroactively to the recertification anniversary date.

## Section 2: Interim Recertification

### 7-9 Key Regulations

The following are the key regulatory citations pertaining to Section 2: Interim Recertification. The citations and their titles are listed below.

- A. 24 CFR 5.657 Section 8 Project-Based Assistance Programs: Re-examination of Family Income and Composition
- B. 24 CFR 884.218, 886.124, 886.324, 891.410, 891.610, and 891.750 Re-examination of Family Income and Composition
- C. 24 CFR 5.659 Family Information and Verification

### 7-10 Key Requirements

- A. To ensure that assisted tenants pay rents commensurate with their ability to pay, tenants must supply information requested by the owner or HUD for use in an interim recertification of family income and composition in accordance with HUD requirements. All tenants must notify the owner when:
  - 1. A family member moves out of the unit;
  - 2. The family proposes to move a new member into the unit;

**NOTE:** At a minimum, owners must apply screening criteria for drug abuse and other criminal activity to persons proposed to be added to the household, including live-in aides. (See paragraph 7-11 B.1 and paragraph 4-7 B.5 for more information.)

**\*\*NOTE:** See Paragraphs 7-4 D and 7-4 E for eligibility of adult children after initial occupancy in Section 202/8, Section 202 PRAC, and Section 811 PRAC projects.\*\*

  - 3. An adult member of the family who was reported as unemployed on the most recent certification or recertification obtains employment; or
  - 4. The family's income cumulatively increases by \$200 or more per month.
- B. Tenants may request an interim recertification due to any changes occurring since the last recertification that may affect the TTP or tenant rent and assistance payment for the tenant. Changes a tenant may report include the following:
  - 1. Decreases in income including, but not limited to, loss of employment, reduction in number of hours worked by an employed family member, and loss or reduction of welfare income;
  - 2. Increases in allowances including, but not limited to, increased medical expenses, and higher child care costs; and

3. Other changes affecting the calculation of a family's annual or adjusted income including, but not limited to, a family member turning 62 years old, becoming a full-time student, or becoming a person with a disability.
- C. Tenants are not required to report when a family member turns 18 years of age between annual recertifications. However, tenants must follow the requirements in their lease for reporting changes in the household income.
  - D. Section 236 and BMIR cooperatives must enforce the interim recertification procedures described in this section only for members who executed occupancy agreements after February 15, 1984. Cooperatives may impose interim recertification requirements on members who executed occupancy agreements prior to February 15, 1984, only if the cooperative amended its by-laws to make such requirements binding on all members or a member voluntarily agreed to include such clauses in his/her occupancy agreement.

### 7-11 Owner Responsibilities

- A. Owners must process an interim recertification if a tenant reports:
  1. A change in family composition;
  2. \*An increase in a family's cumulative income of \$200 or more a month;\*
  3. An increase in allowances (e.g., number of dependents, a new disability assistance expense);
  4. Most decreases in income except in the circumstance described in subparagraph D below; or
  5. A change in citizenship or eligible immigration status of any family members.

**NOTE:** See Chapters 3, 4, and 8 for other citizenship and eligible immigration status requirements. (Restriction on assistance to noncitizens is addressed in paragraph 3-12, denial of assistance is addressed in paragraph 4-31, and termination of assistance is addressed in paragraph 8-7.)

- B. If a tenant reports a change in income that does not increase the household's cumulative income by \$200 or more a month, the owner should not process an interim recertification to increase the tenant's rent. If a tenant reports any other change addressed above along with an increase in income that does not

increase the household's cumulative income by \$200 or more a month, the owner should not include the increase in income in processing the interim recertification.

1. Example: The tenant reports that a family member has gone to work part-time. The owner verifies the employment income and learns that the household's cumulative income will only increase by \$150 per month. The owner should not process an interim recertification.
  2. Example: The tenant reports they have a new baby and also that a family member has gone to work part-time. The owner verifies the employment income and learns that the household's cumulative income will only increase by \$100 per month. The owner should process an interim recertification to include the new baby as a dependent but should not include the increase in income.\*\*
- C. Upon receiving a tenant request for an interim recertification, owners must process a recertification of family income and composition within a reasonable time, which is only the amount of time needed to verify the information provided by the tenant. Generally, this should not exceed 4 weeks.
1. If the reason for interim recertification is a proposed change in family composition, the owner must screen the proposed additional person(s), including live-in aides, for drug abuse and other criminal activity.
  2. The owner may also apply additional owner established screening used for applicants to proposed new persons. In the case of live-in aides, the owner established screening criteria may also be applied, except for the criteria to pay rent on time.
- D. Owners may refuse to process an interim recertification when the tenant reports a decrease in income only if the following apply:
1. The decrease was caused by a deliberate action of the tenant to avoid paying rent. For example, the owner receives documented evidence that a tenant quit a job in order to qualify for a lower rent.
  2. The owner has confirmation that the decrease will last less than one month. For example, an owner receives confirmation from the tenant's employer that the tenant will be laid off for only two weeks.
    - a. If the owner determines that the decrease in income will last less than one month, the owner may choose, but is not obligated, to process an interim recertification.
    - b. The owner must, however, implement this policy consistently for all tenants in the property who experience a decrease in income that will last for less than one month.
- E. Owners should not recertify a tenant receiving welfare assistance in an as-paid welfare program when the Public Assistance Agency reduces the tenant's shelter and utility allowance because it is greater than the tenant's actual rent.

- F. Owners may delay, but not refuse, to process an interim recertification if they have confirmation that a tenant's income will be partially or fully restored within two months. Processing may be delayed only until the new income is known.

**Example – Delaying an Interim Recertification**

A tenant, Bob Jenkins, reports to the owner that he was laid off from his job last week. The owner verifies that Bob lost his job and has filed for unemployment benefits. The processing of his application for unemployment benefits has not yet been completed. The owner may wait until the processing of the unemployment claim has been completed.

1. When owners decide to delay processing, the following apply:
  - a. May require the tenant to pay the current amount of rent until the interim recertification is complete.
  - b. Must not evict the tenant for nonpayment of rent.
  - c. Must not charge the tenant a late fee for paying rent after the 5<sup>th</sup> of the month because the owner elected to delay processing, knowing the tenant has experienced a change in income.
2. Once owners are able to verify the tenant's new income, they must do as follows:
  - a. Recertify the tenant, as described in paragraph 7-12.
  - b. Retroactively apply any reduction in rent to the first day of the month after the date of the action that caused the decrease in income.
  - c. Notify the tenant in writing of any rent due for the period of delay. If the tenant fails to pay this amount within 30 days of notification, the owner may pursue eviction for nonpayment of rent.

**NOTE:** Owners must not enforce language, in any existing lease with a tenant, based on any previous version of Section 16(b) of the model lease other than that presently contained in **Appendix 4** and designated "revised 3/22/89." In cases where existing leases contain the previous version of Section 16(b), at the next recertification of each tenant, owners are to attach a copy of the revised paragraph to the lease, dated and signed by the owner and initialed by the tenant, and give the tenant a copy. The revised version will therefore supersede the old version. All new leases will use the revised form as contained in **Appendix 4**.

- G. Owners do not have to perform interim recertifications for individual tenants who are paying market rent.

## 7-12 Processing Interim Recertifications

- A. When a tenant requests an interim recertification or when a tenant reports changes in income or other circumstances as required, the owner must take the following steps when processing an interim recertification.
1. Interview the tenant to obtain information on the reported change. The owner must also review and ask if there have been other changes to family composition, income, assets, or allowances since the most recent certification.
  2. Obtain third-party verification of the income or other facts reported as changed since the last recertification and maintain documentation in the tenant file. (See Chapter 5, Section 3 for more information about verification.)
  3. Input any changes to the tenant's income or other characteristics in the owner's software program and print \*\*HUD-50059\*\*.
  4. Document the resulting changes in the tenant's rent and assistance payment by obtaining signatures on the \*\*HUD-50059\*\* from the head, co-head, and spouse and all other adult family members. Maintain copy with original signatures in the tenant file. Provide the tenant with a separate copy.
  5. After obtaining tenant and owner representative signatures, electronically transmit interim recertification to the Contract Administrator or HUD to update the tenant information in TRACS.
- B. Owners must take the following steps upon learning that a tenant failed to report a change in income or family composition, as stated in the lease.
1. Tenant notification. When owners learn that a tenant has experienced a change in family income or composition listed in paragraph 7-11 A, they must immediately notify the tenant in writing of his or her responsibility to provide information about such changes. The owner's notice must:
    - a. Refer the tenant to the lease clause that requires the interim recertification;
    - b. Give the tenant 10 calendar days to respond to the notice; and
    - c. Inform the tenant that his or her rent may be raised to the market rent if the 10-day deadline is not met.
- NOTE:** See Exhibit 7-7 for a sample letter.
2. Timely tenant response. If the tenant responds to the notice and supplies the required information within 10 days, the owner must process the request in accordance with subparagraph A above and implement any resulting rent changes in accordance with paragraphs 7-13 C and D.

3. Tenant fails to respond within 10 calendar days of notice. If the tenant fails to respond within the 10 calendar days, the owner must require the tenant to pay market rent as of the first rent period following the 10-day notice period. (See sample notice provided in Exhibit 7-8.) If the tenant subsequently submits the required information, the owner must reduce the tenant's rent on the first of the following month. In a Section 202 PRAC or 811 PRAC project, the owner may evict the tenant for noncompliance with the lease requirement to report changes in family income or composition.

### 7-13 Effective Date of Interim Recertifications

- A. Owners must provide the tenant with written notice of the effective date and the amount of the change in TTP or tenant rent resulting from the interim recertification.
- B. For interim recertifications, both the change in assistance payment and change in TTP or tenant rent are effective on the same day.
- C. If the tenant complies with the interim reporting requirements, rent changes must be implemented as follows:
  1. Rent increases. If the tenant's rent increases because of an interim adjustment, the owner must give the tenant 30 days advance notice of the increase. The effective date of the increase will be the first of the month commencing after the end of the 30-day period.
  2. Rent decreases. If the tenant's rent will decrease, the change in rent is effective on the first day of the month after the date of action that caused the interim certification. A 30-day notice is not required for rent decreases.
- D. If the tenant does not comply with the interim reporting requirements, and the owner discovers the tenant has failed to report changes as required in paragraph 7-10, the owner initiates an interim recertification and implements rent changes as follows:
  1. Rent increases. Owners must implement any resulting rent increase retroactive to the first of the month following the date that the action occurred.
  2. Rent decreases. Any resulting rent decrease must be implemented effective the first rent period following completion of the recertification.

## Section 3: Unit Transfers

### 7-14 Key Regulations

This paragraph is the key regulatory citation pertaining to Section 3: Unit Transfers. The citation and its topic are listed below.

- 24 CFR 880.605, 886.125, 886.325, 891.420, 891.620, 891.760 (Overcrowded and underoccupied units)

## 7-15 Key Requirements

- A. If an owner determines that a tenant's current dwelling unit is smaller or larger than appropriate as a result of a change in a tenant's family size or composition, the owner must decide whether to require the tenant to transfer to another unit.
- B. Owners must not reduce or terminate the assistance payment associated with the original unit until the family has been offered a transfer to a unit of appropriate size and has been given sufficient time (no less than 30 days) to move to the new unit.
- C. **\*\*In the case of a unit transfer, both the change in rent and change in the assistance payment are effective on the day the tenant actually occupies the new unit.\*\***
- D. Owners **\*\*must\*\*** develop additional unit transfer policies to address tenant transfer requests beyond those needed for change in family size, including transfers needed for medical reasons or to accommodate a person with a disability.
- E. Owners **\*\*are\*\*** obligated to transfer tenants to different units as a reasonable accommodation to a household member's disability. For example, a tenant with a physical disability might need a transfer to an accessible unit, or a unit on the ground floor, or a larger unit to accommodate a live-in aide. Transfers which are needed as a reasonable accommodation should be made on a priority basis.

## 7-16 Unit Transfers Due to a Change in Family Composition

### A. Determining Whether a Unit Transfer Should Occur

If a tenant reports a change (or the owner becomes aware of a change) in family composition, the owner must do the following:

1. Determine appropriate unit size. Owners should use the occupancy standards established for the property to determine whether the unit is still the appropriate size for the tenant. The property's occupancy standards must be consistent with the requirements discussed in paragraph **\*\*3-23\*\***.
2. Determine whether a transfer is required. The following considerations determine whether the tenant is required to move:
  - a. Is there a unit of appropriate size in the property? If there are appropriately sized units available, then a transfer to an appropriately sized unit is required. If a unit of appropriate size is not available, then the tenant should be moved to the most appropriately sized unit.

- b. Is there a market for the size of unit the tenant would be vacating? If the tenant is occupying a unit that is larger than needed and there is no demand for that larger unit, the owner does not have to require the tenant to move from the larger unit until there is a demand for that size of unit.
- c. How long will the tenant remain in the property? If the tenant has given a written notice to vacate, the owner need not require the tenant to transfer.

**NOTE:** In Section 236 and Section 221(d)(3) BMIR cooperatives in which the member is receiving no other assistance, the cooperative may establish its own policy on whether the cooperative should offer overhoused members smaller units and require members who refuse such offers to pay the market-rate carrying charge as described in paragraph **\*\*3-23\*\*** H.1.

## **B. Transfer Requirements**

1. When an owner determines that a transfer is required, the Model Lease for Subsidized Programs states that the tenant:
  - a. May remain in the unit and pay the HUD-approved market rent; or
  - b. Must move within 30 days after the owner notifies the family that a unit of the required size is available within the property.
2. Depending upon the circumstances of the transfer, a tenant may be obligated to pay all costs associated with the move. However, if a tenant is transferred as a **\*\*reasonable\*\*** accommodation to a household member's disability, then the owner **\*\*must\*\*** pay the costs associated with the transfer, **\*\*unless doing so would be an undue financial and administrative burden.\*\*** See Chapter 2 for a thorough discussion of the requirements of Section 504 of the Rehabilitation Act of 1973 and **\*\*Chapter 2, Subsection 4 for information and guidance on Reasonable Accommodation.\*\***

## **C. Written Policies**

Owners **\*\*are required\*\*** to describe the unit transfer policies in a written tenant selection plan for the property, and address the following topics **\*\***(refer to Chapter 4, Figure 4-2 and Paragraph 4-4 C for Required Contents of a Tenant Selection Plan).**\*\***

1. Transfer waiting lists;
2. Acceptable reasons for transfers;
3. Procedures for filling vacancies; and
4. Owner's policy for establishing priority for filling vacant units with either tenants awaiting transfers or applicants from the property waiting list.

**D. Transfer Fees in Section 236 and BMIR Cooperatives**

1. A cooperative may collect fees for processing transfers of membership if such fees are approved by the cooperative's board and consistent with the cooperative's by-laws and occupancy agreements.
2. While these fees must be reasonable in amount, the cooperative need not request HUD approval of the amount of the fee.
3. The cooperative may only impose a transfer fee on a member who voluntarily initiates a transfer. Cooperatives must not charge transfer fees when transfers are required pursuant to changes in household composition.

**Section 4: Gross Rent Changes****7-17 Key Requirements**

- A. A gross rent change may occur due to a rent change only, a change in the utility allowance only, or due to a change in both the rent and utility allowance.
- B. Owners must comply with the tenant comment and posting procedures described in the Code of Federal Regulations at 24 CFR 245.
- C. Owners must submit approved gross-rent changes through their software package to the Contract Administrator or to TRACS.
- D. \*Owners must provide the tenant a new HUD-50059-A reflecting all changes in rents, utility allowances, total tenant payment, tenant rent, and assistance payments.
- E. A copy of the HUD-50059-A reflecting any change in the tenant rent, utility reimbursement, total tenant payment or assistance payment must be placed in the tenant file.
- F. Tenants need only sign and date the HUD-50059-A if the gross rent change results in a change in the amount of rent the tenant is required to pay or in the utility reimbursement the tenant will receive. Owners must sign and date the HUD-50059-A.\*

**7-18 Submission and Approval Process**

- A. Owners must submit requests for rent increases to HUD or the Contract Administrator following the submission requirements described in the following:
  1. HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, for budget-based rent increases, annual adjustment factor increases, and utility allowance changes; or

2. The Section 8 Contract Renewal Policy Guide for rent adjustments, if the Section 8 contract has been renewed pursuant to Multifamily Assisted Housing Reform and Affordability Act (MAHRA).
  - B. Owners must implement approved rent changes on the effective date approved by HUD or the Contract Administrator. In some cases, this date may reflect a retroactive approval, and the owner must change the tenant certification and adjust the monthly subsidy voucher. Revised data must be transmitted to the Contract Administrator or to TRACS to reflect the retroactive changes.
  - C. Owners must implement approved changes in utility allowances within 75 days of approval by HUD or the Contract Administrator.
  - D. Owners must prepare tenant certifications reflecting gross rent changes using the on-site software and submit the changes to their Contract Administrator or TRACS for each tenant in the project/contract.

**NOTE:** Gross rent changes do not require a tenant recertification and do not affect annual recertification anniversary dates or schedules.

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## Chapter 7 Exhibits

- 7-1 \*\* Sample\*\* Annual Recertification Initial Notice  
<http://www.hud.gov/offices/adm/hudclips/forms/files/90100.pdf>
- 7-2 \*\* Sample\*\* Annual Recertification First Reminder Notice  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgH/4350.3/43503e7-2HSGH.pdf>
- 7-3 \*\* Sample\*\* Annual Recertification Second Reminder Notice  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgH/4350.3/43503e7-3HSGH.pdf>
- 7-4 \*\* Sample\*\* Annual Recertification Third Reminder Notice/Notice of Termination  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgH/4350.3/43503e7-4HSGH.pdf>
- 7-5 \*\* Sample\*\* Sample Recertification Interview and Verification Record  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgH/4350.3/43503e7-5HSGH.pdf>
- 7-6 \*\* Sample\*\* Model Form of Notification of Rent Increase Resulting from Recertification Processing  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgH/4350.3/43503e7-6HSGH.pdf>
- 7-7 \*\* Sample\*\* Interim Adjustment Initial Notice  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgH/4350.3/43503e7-7HSGH.pdf>
- 7-8 \*\* Sample\*\* Interim Adjustment Termination of Assistance  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgH/4350.3/43503e7-8HSGH.pdf>