

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The IHA is committed to ensuring that subsidy funds made available to the IHA are spent in accordance with HUD requirements.

This chapter covers HUD and IHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents IHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the IHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

IHA Policy

The IHA anticipates that the vast majority of families, owners, and IHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure the IHA's HCV program is administered effectively and according to the highest ethical and legal standards, the IHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The IHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The IHA will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

The IHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key IHA forms and form letters that request information from a family or owner.

IHA staff will be required to review and explain the contents of all HUD- and IHA-required forms prior to requesting family member signatures.

The HAP contract will be reviewed with first-time owners or their agents at the initial inspection.

The IHA will provide each IHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the IHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the IHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

IHA Policy

In addition to the SEMAP quality control requirements, the IHA will employ a variety of methods to detect errors and program abuse.

The IHA routinely will use available sources of enterprise income verification (EIV) to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The IHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$750,000 or more in federal awards annually to have an Independent Audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of IHA activities and notifies the IHA of errors and potential cases of program abuse.

IHA Policy

The IHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the IHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

IHA Policy

The IHA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the IHA Will Investigate

IHA Policy

The IHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the IHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The IHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

IHA Investigation Procedures

IHA Policy

When the IHA has determined that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the Executive Director or Deputy Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below.

- **EIV.** In all cases EIV will be updated and reviewed, including income discrepancy reports
- **Credit Bureau Inquiries.** In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.
- **Verification of Credit.** In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.
- **Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
- **Neighbors/Witnesses.** Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the IHA's review.

- **Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.
- **Public Records.** If relevant, the IHA may review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, Uniform Commercial Code financing statements, voter registration, judgments, court or police records, state wage records, utility records, and postal records.
- **Head of Household or Family Members.** The IHA may discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the IHA office. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language, on the part of either the family or the IHA representative, be tolerated by the management. An additional staff person may be required to attend such interviews.

Consent to Release of Information [24 CFR 982.516]

The IHA may investigate possible instances of error or abuse using all available IHA and public records. If necessary, the IHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

IHA Policy

The IHA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole, shows that the fact sought to be proved is more probable than not.

Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

For each investigation the IHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the IHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the IHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

IHA Policy

In the case of family-caused errors or program abuse, the IHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the IHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

IHA Policy

If evidence of program abuse is found, IHA will inform the relevant party in writing of its findings and remedies within ten (10) business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the IHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an Informal Review or Hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the IHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

IHA Policy

Increases in the family share will be implemented only after the family has received a thirty (30) day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the IHA or the IHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the IHA to use incorrect information provided by a third party.

Family Reimbursement to IHA [HCV GB pp. 22-12 to 22-13]

IHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The IHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the IHA will terminate the family's assistance in accordance with the policies in Chapter 12.

The IHA will enter into only one "Repayment Agreement" with the family for unreported income at any given time. The family may make monthly payments for a period of up to 24 months or a lump sum payment for the entire balance owed. The family would be required to pay this debt in full before a new Repayment Agreement can be executed. A family will have a minimum of thirty (30) days before the first payment will be due. All payments will be due by the 15th of each month. If the family miss two payments or is late on two payments, they may be terminated from the program.

- If amount owed is Under \$100 – 1 month to repay
- \$100 - \$500 – Six (6) months to repay
- \$501 - \$1,000 – 12 months to repay
- \$1,001 – \$2,399 - 24 months to repay
- \$2,400 or more will have an automatic termination of assistance from the HCV program and no repayment agreement will be allowed.

Family under a Repayment Agreement, may not be allowed to move until the balance owed is paid in full.

IHA Reimbursement to Family [HCV GB p. 22-12]

IHA Policy

The IHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the IHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

IHA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the IHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the IHA Board of Commissioners, employees, contractors, or other IHA representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the IHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

Receiving any benefit for which they are not eligible

The IHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the IHA may, at its discretion, impose any of the following remedies.

- The IHA will require the family to repay excess subsidy amounts paid by the IHA, as described earlier in this section.

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- The IHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
 - The IHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
 - The IHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the IHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the IHA any excess subsidy received. The IHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the IHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

IHA Policy

In cases where the owner has received excess subsidy, the IHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the IHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

IHA Policy

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the IHA
- Charging a security deposit other than that specified in the family's lease

Charging the family for services that are provided to unassisted tenants at no extra charge

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to the IHA Board of Commissioners, employees, contractors, or other IHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the IHA

Residing in the unit with an assisted family

Remedies and Penalties

When the IHA determines that the owner has committed program abuse, the IHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any IHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. IHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of IHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a IHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the IHA personnel policy.

IHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the IHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by IHA staff [HCV GB. 22-12].

IHA Reimbursement to Family or Owner

The IHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the IHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

IHA Policy

Any of the following will be considered evidence of program abuse by IHA staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the IHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of IHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

IHA Policy

When the IHA determines that program abuse by an owner, family, or IHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the IHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

Disciplinary action in accordance with IHA's policies and practices

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The IHA may retain a portion of program fraud losses that the IHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The IHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the IHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the IHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the IHA related to the collection, these costs must be deducted from the amount retained by the IHA.