

KNOW YOUR RIGHTS

SECTION 8

CERTIFICATES & VOUCHERS: TERMINATION OF BENEFITS

1. Introduction

The Section 8 Certificate & Voucher program has undergone significant changes in the past several years. Many of protections that once were available to certificate and voucher holders have been eliminated. In 1998, HUD combined the certificate and voucher programs with the goal of phasing out the certificate program and gave the program a new name – Section 8 Housing Choice Voucher Program. As of September 30, 2001, all certificates should have been converted to vouchers.

This brochure will explain your obligations under the Section 8 program and what rights you have should the housing authority try to terminate your Section 8 assistance. The brochure also addresses some common questions raised by participants.

This brochure does not explain what rights you have should your landlord attempt to evict you. To learn about your rights in the eviction process review our brochure on **Section 8 Existing Housing Evictions**. It is important that you take the necessary steps to work out any problems between you and your landlord before you end up in court. If you are unable to work out the problems with your landlord and he decides to proceed with an eviction action, it is important that you to challenge the eviction action. If you fail to challenge the eviction action, you could lose your Section 8 assistance because of a change in the law that requires the Housing Authority to terminate you from the Section 8 program if you are evicted for serious violations of your lease. Any lease violation resulting in an eviction could be viewed as a serious lease violation.

2. When may the Housing Authority (HA) terminate me from the Section 8 program?

You may be terminated from the program for the following reasons:

- Family violates any family obligations under the program (See Question #3);
- Any member of the family commits drug-related criminal activity, or violent criminal activity on or near the premises;
- Any member of the family is fleeing to avoid prosecution, custody, or confinement after conviction, for a crime or an attempt to commit a crime that is a felony;
- Any family member is violating a condition of probation or parole imposed under federal or state law;
- Any family member has engaged in abuse of alcohol or a pattern or abusing alcohol that threatens the health, safety, or the right to peaceful enjoyment of the premises by other residents;

- Any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal program;
- Family currently owes monies to the HA or another HA for amounts in connection with the Section 8 program or public housing program;
- Family has not reimbursed any HA for amounts paid to an owner on behalf of the family for rent, damages to the unit, or other amounts owed by the family under the lease;
- Family breaches a repayment agreement with any HA;
- Family violates the HA's written policy on absence from a unit which may limit number of consecutive days family can be absent from the unit to a maximum of 180 days.
- Any member of the family has been evicted from federal assisted housing in the last five years;
- Family has engaged in or threatened abusive or violent behavior toward HA personnel.
- Family participating in the Family Self-sufficiency (FSS) Program fails to comply, without good cause, with the family's FSS contract of participation;
- Family participating in the welfare-to-work program fails, willfully and persistently, to fulfill its obligation under the welfare-to-work voucher program.

The Housing Authority has the discretion to terminate you from the Section 8 Program for any of the listed reasons. "Discretion" means that the Housing Authority has the right to terminate your assistance although it is not required by law to do so. There are, however, four (4) situations where the Housing Authority is required by law to terminate your Section 8 assistance: 1) if you are evicted for a serious lease violation; 2) if any family member has ever been convicted of the manufacture or production of methamphetamine (speed) on the premises of federally assisted housing; 3) if any family member fails to sign the requested consent forms to allow the Housing Authority to verify family's continued eligibility for the Section 8 Program; and 4) if your family fails to submit the required evidence of citizenship or eligible immigration status.

3. What are my family obligations under Section 8 programs?

Your family obligations under the Section 8 program are:

- to not commit any serious or repeated violation of the lease;
- to supply all necessary information to the HA for the administration of the program and for use in the re-certification process;
- to allow the HA to inspect the premises at reasonable times after reasonable notice;
- not to commit a breach of the Housing Quality Standards;
- to notify the HA before vacating the unit;
- to promptly give the HA a copy of any eviction notice;
- to use the unit only as a residence and as the family's principal residence;
- to report any changes in household composition;

- to supply to the HA any verification that the family is living in the unit or that is related to family absence from the unit;
- to not sublease, transfer or own the unit;
- to not commit fraud in the program;
- to not receive duplicative housing assistance; and
- to not engage in violent or drug-related criminal activity.

4. May the Housing Authority terminate me from the Section 8 program if I owe them money for a damage or vacancy claim?

YES. In the past, a Housing Authority could not immediately terminate housing assistance payments under an outstanding contract because of a damage or vacancy claim. Instead, the Housing Authority had to wait for the family to move before it could terminate assistance due to an unpaid damage or vacancy claim. However, under the current regulations, the Housing Authority may terminate assistance at any time if you owe them or another Housing Authority any money. The Housing Authority, at its discretion, may offer a family an agreement to pay the amounts owed. Therefore, if you owe the Housing Authority money, you should make every effort to negotiate a reasonable repayment agreement.

5. May the Housing Authority terminate me from the Section 8 program if I entered into an agreement to reimburse them for a damage or vacancy claim and I have broken that agreement?

YES. Breaking a repayment agreement with the Housing Authority is grounds to terminate assistance. If you anticipate missing a payment under an agreement, you should contact social service agencies or family for financial assistance or make alternative arrangements with the Housing Authority.

6. May the Housing Authority stop making their Housing Assistance Payments if I have received an eviction notice from my landlord?

NO. The housing authority can not stop making Housing Assistance Payments simply because you have received an eviction notice from your landlord. If you receive an eviction notice from your landlord, you should immediately provide the housing authority with a copy of the notice. If you disagree with the allegations in the eviction notice, you should inform the housing authority of your intentions to contest the eviction so they do not stop making the Housing Assistance Payments. You should try to work out any problems with your landlord. If you are unable to do so and your landlord decides to bring an eviction (unlawful detainer) action, you should take the necessary steps to defend yourself in the eviction action. See our brochure on **Section 8 Existing Housing Evictions** for an explanation of your rights in the eviction process. The Housing Authority must continue pay-

ing the Housing Assistance Payments until the eviction becomes final by court order and you have exhausted your appeal rights or you voluntarily move.

7. Will the Housing Authority terminate me from the Section 8 Program if my landlord evicts me?

If the Housing Authority determines that you have been evicted for a serious lease violation, then it is required by law to terminate you from the Section 8 Program. The Housing Authority could determine that any lease violation that results in a court ordered eviction is a serious lease violation. You do have the right to request an informal hearing, as explained in Section 8 below, to contest the Housing Authority's decision to terminate; however, it will be very difficult for you to challenge the Housing Authority's decision to terminate if it is based on a court ordered eviction.

8. How do I challenge the Housing Authority's decision to deny or terminate their assistance?

The Housing Authority must promptly inform you in writing of the reason for their decision to terminate their assistance. You have the right to request an informal hearing to contest the decision. You must make your request by the deadline given by the Housing Authority or you waive your right to contest the decision. The Housing Authority may not terminate their housing assistance payments under an outstanding contract before you have had the opportunity to contest the decision at the informal hearing regardless of the reason for the termination.

The hearing must be conducted by an impartial party who is appointed by the Housing Authority. The hearing officer may not be the person who made or approved the decision or a subordinate. If the hearing officer is not an impartial party, then you should make your objections known for the record and request a new hearing officer.

Prior to the hearing you should inspect your tenant file and copy all documents related to the termination. These documents may include: your lease, the Section 8 Contract, written complaints, repayment agreements, witness statements, damage claims, and police reports. You should ask the Housing Authority to identify the documents it intends to rely on at the hearing so you can prepare to rebut their evidence. The Housing Authority may not use any documents at the hearing it did not make available to you.

At the hearing, you have the right to be represented by a lawyer or representative. You will also have the opportunity to present evidence and question witnesses. The hearing officer will issue a written decision stating the reasons for the decision and furnish you with a copy.

9. What must the Housing Authority consider when deciding to terminate assistance?

The Housing Authority has the discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation of individual family members, and the effects of termination on other family members who were not involved. The Housing Authority may impose, as a condition for continued assistance, that family members who participated in the violation not reside in the unit.

If the Housing Authority is terminating your assistance because of the illegal drug use or alcohol abuse by a family member, you may be able to avoid losing your Section 8 assistance by showing that this individual is no longer using illegal drugs or abusing alcohol. The Housing Authority may consider evidence that individual is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or can provide other evidence that he/she has been successfully rehabilitated. The Housing Authority, however, could require the individual who engaged in the drug use or alcohol abuse to not reside in the unit as a condition of continued assistance for the remaining family members.

Beware: Laws Change

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. The information in this publication is current as of December 2001. Laws change and you should consult a lawyer to insure that the information in this publication is current.

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