

## **SCOPE AND OBJECTIVES OF THIS PLAN**

This Administrative Plan addresses local discretionary program functions in the Section 8 Housing Choice Voucher Rental Assistance Program. All other operational procedures will be developed and implemented as required by HUD Regulations, Federal, State and local laws.

## **APPROACH AND OBJECTIVES IN PROGRAM ADMINISTRATION**

Burleigh County Housing Authority's (hereafter in this document known as BCHA) objectives in the administration of the Section 8 Housing Choice Voucher Rental Assistance Program is to provide safe, decent, affordable housing to extremely and very low-income families residing in or wishing to reside in the community. BCHA will inform the applicants/program participants of the wide variety of housing types and neighborhoods available to them to assist the program participants to take advantage of the freedom of housing choice and expansion of housing opportunities made possible by the Section 8 Housing Choice Voucher Rental Assistance program. BCHA will enforce housing quality standards in accordance with written inspection procedures which will enhance the community's efforts to improve and maintain existing housing units.

BCHA networks both formally and informally with local service providers to refer families to social services, job markets, home-ownership opportunities, continuing education, drug addiction and abuse counseling, budget counseling and agencies which can provide financial assistance to applicants/program participants to further the families' efforts toward self-sufficiency.

## **INCOME TARGETING**

In accordance with current law, BCHA will assure that at least 75 percent of all new admissions each calendar year have an income which does not exceed 30 percent of the area median income (extremely low-income). The remaining 25 percent of new admissions each calendar year may be offered to families whose income does not exceed 50 percent of the area median income (very low-income).

## **MARKETING AND OUTREACH**

BCHA serves on an interagency council of service provider professionals and networks with agencies in the area to increase the opportunity for groups least likely to apply for assistance to be reached. BCHA works with providers of special needs housing to ensure that to the extent possible a handicapped, disabled or special needs person/family is able to obtain housing.

If, at any time, BCHA does not have an adequate pool of applicants, an ad or notice will be placed in the local newspaper containing the following information: (1) Equal Housing Opportunity logo and statement, and (2) an invitation to all low-income persons/families to apply for housing assistance.

BCHA outreaches to owners by providing them with information regarding participation in the Housing Choice Voucher Rental Assistance Program through notices, distribution of informational brochures on the program, membership in the local Apartment Rental Association and one-on-one conferences with current landlords on an as-needed basis when program changes occur which affect the assisted leases and the contracts between the owners and BCHA. BCHA may hold landlord informational meetings when there are significant program changes.

BCHA encourages landlords who are willing to participate in the Housing Choice Voucher rental assistance program (HAP) to include that information in their advertising, also a bulletin board is available in the BCHA offices for landlords to post available units.

The geographical/jurisdictional area in which BCHA operates the Housing Choice Voucher Rental Assistance Program includes all of Burleigh, Kidder, and Sheridan counties. Although Burleigh, Kidder, and Sheridan counties do not have a concentrated very-low income census tract, BCHA's marketing to the communities as a whole assists with de-concentration of low-income families. BCHA implements to the fullest extent possible the portability of housing assistance for eligible applicants to increase housing options for very low and extremely low-income families.

## **NON-DISCRIMINATION**

BCHA will administer the Section 8 Housing Choice Voucher Rental Assistance Program in a fair and consistent manner to all persons/families interested in program participation.

BCHA will not discriminate at any stage of application or participation because of race, color, national origin, religion, creed, sex, age, familial status, disability or handicap or political affiliation or acquaintance with any public official at the federal, state or local level. BCHA is bound by the nondiscrimination required by federal, state and local law. BCHA will abide by the nondiscrimination requirements of:

1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs receiving federal financial assistance;
2. Title VIII of the Civil Rights Act of 1968, which prohibits discrimination based on race, color, religion, sex, handicap, disability, familial status or national origin, in the sale, rental or advertising of housing;
3. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicap in programs receiving federal financial assistance;
4. The Age Discrimination Act of 1975, which prohibits discrimination based on age in programs receiving federal assistance;
5. Executive Order 11063, which required HUD to take whatever action is necessary to prohibit discrimination based on race, color, sex, handicap, disability, familial status or national origin, in housing receiving federal assistance;
6. N.D.C.C. 14-02.4, which is the state anti-discrimination law. BCHA shall not discriminate against any applicant because of race, color, religion, sex, national origin, age or mental or physical disability, or status with regard to marriage or public assistance. No preference will be shown any applicant because of political affiliation or acquaintance with any public official at the federal, state, or local level;
7. The Fair Housing Act (42 U.S.C. 3601-3619) and the implementing regulations at 24 CFR parts 100, 108, 109 and 110;
8. The Americans with Disabilities Act (42 U.S.C. 12101-12213) to the extent applicable;
9. Violence Against Women Act and Department of Justice Reauthorization Act of 2005 (VAWA.)

BCHA shall not discriminate against any applicant/program participant receiving part or all of his/her income from public assistance or based upon the location of housing selected by the applicant/program participant if the applicant/program participant meets all other eligibility criteria.

## **REASONABLE ACCOMMODATION**

Any individual with a disability may request reasonable accommodation to have access to the benefits of housing or housing assistance equal to the benefits of housing and housing assistance accessed by non-disabled individuals.

The definition of a disabled individual used for admission to the voucher program and the assisted rent calculation differs from the definition of a disabled individual for whom a reasonable accommodation is requested.

To qualify for a reasonable accommodation you must meet the following criteria.

1. Be a Housing Authority-verified disabled individual defined as handicapped and/or having a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment or is regarded as having such impairment. (The disability may not be apparent to others, i.e. heart condition).
2. The requested accommodation must be related to the disability. When the disability is not documented or apparent, the Housing Authority will request written documentation from a qualified individual or agency that the requested accommodation is needed due to the disability. The Housing Authority will not require verification of the nature of the disability.
3. The requested accommodation must be considered reasonable by the Housing Authority. To be considered reasonable, the accommodation requested should (a) not alter the fundamental business of providing housing assistance. For example: The housing authority would not consider a request to provide a grocery shopping or housekeeping service reasonable, as this does not fall within the fundamental business of providing housing assistance, and (b) not create undue hardship or financial burden to the housing authority.

If more than one accommodation is equally effective in providing equal access to the Housing Authority's programs and services, the Housing Authority retains the right to select the most efficient or economic choice of accommodation.

4. When the program participant requests as a reasonable accommodation that he or she be permitted to make physical modifications to their dwelling unit, the request must be made to the owner/manager of the unit being rented. The Housing Authority has no authority or responsibility to make a unit accessible that is not owned by the PHA.

5. Communication Accommodation. Burleigh County Housing Authority does take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public, and furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving Federal financial assistance in accordance with 24 CFR 8.6 Communication. All interpreters, signers and auxiliary aids must be pre-approved by Burleigh County Housing Authority if services are to be billed to this agency.

Whenever a reasonable accommodation is requested the Housing Authority retains the right to determine if the requested accommodation meets the above criteria.

When a request for a reasonable accommodation is denied, the program participant will be notified in writing of the denial.

## **DEFINITIONS**

Activities of Daily Living: A person who engages in any of the following activities including but not limited to:

- \* Bathing
- \* Sleeping
- \* Meals
- \* Storage of personal belongings
- \* Uses the assisted unit's address on any type of public or legal document or in the procurement of goods and services.
- \* Is observed by reliable witnesses to engage in the activities of daily living at the assisted unit's address for more than fifteen (15) days in a twelve (12)-month period.
- \* Reports to the Housing Agency from other public agencies and law enforcement officials that they have provided services and/or have served legal papers to a person at the assisted unit's address.
- \* Uses the assisted unit's address as the person's mailing address and/or as the person's address to law enforcement officials or federal or state courts.

Continuously-assisted Family: To be considered a continuously-assisted family for admission when a family would not otherwise be eligible based on the family's current income and/or composition the family must:

1. Be currently assisted under any federal housing or housing assistance program; or
2. Have had an interruption of assistance not to exceed 90 days which interruption was beyond the family's control and the family has met all previously imposed obligations in any current or prior participation in any federal housing or housing assistance program.

Disabled Family: A person or group of persons whose head of household is under a disability as defined in Section 223 of the Social Security Act (42 USC 423), or in Section 102(7) of the Development Disabilities Assistance and Bill of Rights Act (42 USC 6001(7)), or is handicapped as defined in this section or section 504 of the Rehabilitation Act. Section 223 of the Social Security Act defines disability as:

- a. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
- b. In the case of an individual who has attained age 55 and is blind within the meaning of "blindness" as defined in the above regulations; inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time.

Section 102(5) of the Development Disabilities Services and Facilities Construction Amendments of 1970 defines disability as: A disability attributable to mental retardation, cerebral palsy, epilepsy, or other neurological condition of an individual found by the Secretary of Health, Education, and Welfare to be closely related to mental retardation or to require treatment similar to that required for mentally

retarded individuals, which disability originates before such individual attains age 18, which has continued or can be expected to continue indefinitely and which constitutes a substantial handicap to such individual.

**Elderly Family:** An elderly family includes a family whose head (including co-head), spouse or sole member is at least 62 years of age; two or more persons at least 62 years of age living together; or one or more persons at least 62 years of age living with one or more live-in aides.

**Family:** The term “family” includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or
2. A group of persons residing together and such group includes but is not limited to:
  - (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - (ii) An elderly family;
  - (iii) A near-elderly family;
  - (iv) A disabled family;
  - (v) A displaced family; and
  - (vi) The remaining member of a tenant family.

**Family Break-up:** BCHA will determine which family members continue to receive assistance when the family breaks up as follows: The individual who is currently the head of household as listed on the HAP contract at the time of family breakup will continue to receive housing assistance as long as the current head of household continues to meet all other eligibility criteria. When the family breakup reduces the number of family members, the voucher subsidy will be reduced at the next annual review to reflect the reduced size of the family.

**Gender Identity:** The term “gender identity” means actual or perceived gender-related characteristics.

**Handicapped Family:** A person or group of persons whose head of household has any condition or characteristic that renders a person an individual with handicaps. Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment or is regarded as having such impairment.

**Live-in Aide:** The term “live-in aide” means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons; and
- (3) Would not be living in the unit except to provide the necessary supportive services.

**Living or residing in an assisted unit:** A person shall be considered to be living or residing in an assisted unit if they engage in activities of daily living for more than fifteen (15) days in a twelve (12)-month period.

**Near Elderly:** The term “near elderly” means a family whose head (including co-head), spouse or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 year of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62.

Regular Contributions and Gifts: Periodic and determinable allowances, such as alimony and child support, as well as regular contributions and gifts from organizations or persons not residing in the assisted household. (24 CFR 609(b)(7)).

Sexual Orientation: The term “sexual orientation” means homosexuality, heterosexuality or bisexuality.

Single Person Family: An elderly person, a displaced person or any other income-eligible single person.

Student Eligibility: To meet the student eligibility requirements as a student enrolled in an institution of higher education you must meet one of the following criteria:

- Be 24 years old by December 31<sup>st</sup> of this year, or
- Be married, or
- Have a dependent other than a spouse and must not be claimed as a dependent pursuant to IRS regulations for the past 12 months, or
- Be a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes, or
- Have been an orphan or ward of the state until age 18, or
- Be a college graduate pursuing a master’s degree, and
- Have parents who are individually or jointly income eligible for Section 8 Housing Assistance, or
- Must be able to demonstrate his or her independence from parents for the past 12 months. (Student must provide prior year federal income tax return and parents’ prior year federal income tax return).
- Vulnerable Youth

Temporary, sporadic or nonrecurring income: Income which is not expected, is not reliable or periodic, cannot be anticipated and no historic, stable pattern of income exists.

Unauthorized household member: A person who lives or resides in an assisted unit for more than fifteen (15) days in a twelve (12)-month period without prior written consent from BCHA and the landlord.

Vulnerable Youth- is an individual who meets the U.S. Departments of Education’s definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s state of legal residence

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local education agency homeless liason.

The director of a program funded under subtitle B of tile IV of the McKinney-Vento Homeless Assistance Act or a designee of the director.

A financial aid administrator.

## **WAITING LIST PROCEDURES**

A single waiting list will be maintained for all applicants wishing to participate in the Section 8 Housing Choice Voucher Rental Assistance Program.

1. In order to be placed on the waiting list, an interested family must submit a **complete** application to BCHA. Applications are available at the BCHA office or on its website at [www.burleighcountyhousing.com](http://www.burleighcountyhousing.com).
2. Complete applications will be date and time stamped upon receipt in the BCHA office.
3. All applications will be cross-checked with in-house case files, public records at the district and/or federal court, the statewide Applicant Reselect List (ARS), the state registry list for sex offenders and offenders against children and the Dru Sjodin national sex offender public website to determine if the family is eligible for placement on the waiting list.
  - a) An applicant determined to be ineligible will be notified in writing and advised of the reason(s) for the determination and of their right to request an informal hearing of the decision no later than 10 calendar days from the date of the notice.
  - b) An applicant who appears to meet the requirements of this plan and federal regulations will be placed on the waiting list as of the date and time of acceptance of application.
4. The waiting list will be purged as needed to remove applications from the waiting list for families who are no longer interested in receiving housing assistance to ensure that the list remains representative of the needs of the community.
5. An applicant may request to be placed at the bottom of the waiting list one time. A second refusal of assistance shall inactivate the application.
6. Applicants will be removed from the waiting list under the following circumstances:
  - a. At any time upon the written request of the Applicant to be removed from the waiting list; or
  - b. When the Applicant has failed to respond to the notification of an available unit within ten days of the date of the notification; or
  - c. When the Applicant has responded to the notification of an available unit and failed to appear for the appointment; or
  - d. When the Applicant has failed to return completed landlord references within ten days of the date mailed; or
  - e. When the Applicant is no longer eligible for the program; or
  - f. When the Applicant has been offered an available unit and has refused the unit; or
  - g. When regular mail sent to the address on the completed or updated application is returned by the USPS, unopened and/or undeliverable; or
  - h. When the household size of the applicant no longer qualifies for the bedroom size applied for or pursuant to Occupancy Standards.

## Local Admissions Preferences

1. A local preference is given to a disabled or handicapped individual who requires a handicap accessible unit and is receiving support services through HIT, Pride, Enable, Support Systems, Inc., and Comfort Care, Inc. This local preference is limited to applicants selected for tenancy at handicap units located at 1509-1519 South Washington Street, 2941-2943 North 19<sup>th</sup> Street, 225 West Bowen Avenue, 233 West Bowen Avenue, and 919 North 5<sup>th</sup> Street, Bismarck, North Dakota.
2. When an applicant is eligible for tenancy in a unit at an affiliated agency, Community Homes of Bismarck, Inc. (CHBI) and no assistance is available under CHBI's Section 8 Project-based ACC, the applicant will receive a preference to be assisted through Burleigh County Housing Authority's Housing Choice Voucher Program. Tenants receiving this preference will be required to enter into one-year leases with CHBI as required by the Housing Choice Voucher Program Contract.
3. A local preference is given to families who are currently renting Burleigh County Housing Authority 3-and 4-bedroom public housing units at such time as said public housing unit is sold or disposed of under either Burleigh County Housing Authority's Homeownership Program or under HUD-approved demolition or disposition regulations.

## Closing and Opening the Waiting List

When it is determined that the existing waiting list contains an adequate pool of applicants for use of program funding, BCHA may stop accepting new applications. When it is determined that the existing waiting list no longer provides an adequate pool of applicants the waiting list may be reopened to take new applications. Both the closing and opening of the waiting list shall be accomplished by placing a public notice at the offices of BCHA and on its website at [www.burleighcountyhousing.com](http://www.burleighcountyhousing.com).

## SUBSIDY STANDARDS

A Voucher will be issued to an applicant at admission, family moves and portability moves to assist two (2) persons of the same sex per bedroom except as a reasonable accommodation for a person with disabilities.

Listed below are the minimum and maximum standards:

Voucher Subsidy Size	Minimum Persons	Maximum Persons
0-Bdrm	1	1
1-Bdrm	1	2
2-Bdrm	2	4
3-Bdrm	3	6
4-Bdrm	5	8
5-Bdrm	8	10

Every family member, regardless of age, will be counted as a person. An unborn child, a foster child or a child in the process of being legally adopted is counted as a person.



**The subsidy standards are for Voucher issuance purposes only.** A family may rent a unit either larger or smaller than stated on the issued Voucher providing the unit complies with: (1) minimum housing quality standards, (2) the 40% of adjusted income family payment for rent limitation, and (3) occupancy by the family does not constitute overcrowding or under-utilization of the unit.

## **VOUCHER ISSUANCE AND ADMISSION TO THE PROGRAM**

Eligible families will be issued Vouchers as their names reach the top of the waiting list which shall be in accordance with date and time of application, applicable local preference and in compliance with the Income Targeting Guidelines.

The procedure to comply with Income Targeting Guidelines is as follows: Continuous income-tracking logs will be maintained by staff and once per month these logs will be reviewed for compliance with the 75 percent extremely low-income to 25 percent very low-income admissions requirement.

In the event that new admissions for the present fiscal year fall below the mandatory income guidelines for extremely low income admissions, BCHA may be required to select applicants whose names have come to the top of the waiting list based on their income meeting the extremely low income guidelines rather than strictly by date and time of application.

In the above-defined circumstances selection will be accomplished as follows:

- Applicant will be notified in writing that their name has reached the top of the waiting list. Applicant must call to schedule an initial briefing interview for eligibility screening.
- At the briefing interview it will be determined if the family income is at the low or extremely low level. If as a result of the briefing interview an applicant's verified income exceeds the extremely low income requirement, the applicant will remain on the waiting list as of their original date and time, and the next individual on the waiting list will be processed.
- This process will continue until BCHA is again in compliance with the mandatory income targeting guidelines.

### Briefing Policy for Admission

Families whose names have reached the top of the waiting list will be notified by mail to call and schedule an initial briefing interview for eligibility screening. If they are interested in participating in the program they must attend this appointment. Families will be given an opportunity to reset the initial briefing interview for a period not to exceed 30 days from the date of the original appointment. Families who do not attend a scheduled initial briefing interview as set out above will be removed from the waiting list on the 31st day. If the family is still interested in participating in the housing assistance program they will be required to reapply.

Initial briefing interviews may be conducted on both a group and individual basis. At the briefing interview the family will be briefed regarding participation in the Voucher program.

The applicant family will be given a briefing packet containing all the required information and documents. A full explanation will be given of all information in the packet.

The following elements will be part of each initial briefing interview and information packet:

- How the Voucher Program works

- Family Obligations
- PHA Obligations
- Landlord Obligations
- Where the Family can lease a unit
- Explanation of Portability and Information Sheet
- Term of the Voucher and any extensions
- How the Housing Assistance Payment is calculated (medical expenses are calculated pursuant to current IRS Publication 502)
- Information sheet and explanation of Payment Standards and Utility Allowances
- Explanation of Subsidy Standards
- Explanation of minimum and maximum rents
- Information on what the family needs to consider when leasing the unit (a) location, (b) FMR/Payment Standard, (c) accessibility, (d) condition of unit, (e) whether the rent is reasonable, etc. (this includes the pamphlet "A Good Place to Live")
- HUD required Lease Addendum
- Request for Tenancy Approval New Unit Information Form
- Information sheet on what information BCHA will share with prospective landlords regarding housing assistance applicants and program participants
- Lead-based paint Brochure "Protect Your Family from Lead in Your Home" (17) Information on housing discrimination, this includes; Fair Housing - Its Your Right Booklet and HUD-903 Housing Discrimination Complaint Form
- A listing of any known landlords/managers who are willing to participate in the HAP Program
- Any known accessible units
- Information sheet and explanation of grounds for denial or termination of assistance
- Informal Hearing Procedures and how to request a hearing.
- Housing Choice Voucher Program Landlord Information Brochure

## **VOUCHER PAYMENT STANDARD SCHEDULE**

Payment Standards shall be set by Board of Commissioners between the minimum and maximum as established by HUD regulation.

Each year the Board-approved payment standard shall be published in BCHA's Agency Plan for all bedroom sizes in Burleigh, Kidder, and Sheridan counties.

If BCHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the BCHA must use the appropriate payment standard for the exception area.

The payment standard in effect for each program participant shall be the higher of (1) the payment standard in effect at the beginning of the term of the current lease and contract, or (2) the current payment standard. If a change in payment standard is required, the new payment standard applies at the next annual examination.

## **ADMINISTRATION OF A PORTABLE FAMILY'S SELF-SUFFICIENCY CONTRACT**

BCHA will administer current family self-sufficiency contracts for families who have ported into the BCHA Section 8 Housing Choice Voucher Rental Assistance Program and have a current FSS contract

with the initial Housing Agency.

## **EXPIRATION AND EXTENSION OF VOUCHERS**

If a family has not: (1) successfully completed their housing search, and (2) submitted a Request for Tenancy Approval New Unit Information Form, or (3) requested an extension prior to the expiration date

of the term of the Voucher, the family's name will be removed from the waiting list and the application will be made inactive.

All voucher holders will be granted a 60-day extension at the end of the first 60-day period upon written request.

BCHA may not approve a Request for Tenancy in which the family portion of the rent will exceed 40 percent of the family's verified adjusted income.

## **INFORMATION BCHA WILL PROVIDE TO LANDLORDS CONCERNING APPLICANTS AND PROGRAM PARTICIPANTS AT LANDLORD'S REQUEST**

1. Family's current address.
2. Name of family's current and prior landlord.

## **POLICY GOVERNING PROGRAM PARTICIPANT FAMILY MOVES**

The program participant family may not:

1. Move during the first one-year term of any assisted lease, or
2. Move more than once in any subsequent 12-month period,

and continue to be assisted through BCHA's Section 8 Housing Choice Voucher Rental Assistance Program whether the program participant 's voucher is administered by BCHA or by another PHA for BCHA.

Exceptions to this policy may be made at BCHA's discretion, some examples of exceptions are: natural disasters such as fire, flood, tornado, an owner-caused repeatedly-failed unit, etc.

## **PORTABILITY FAMILY MOVES**

In compliance with HUD regulations, BCHA will approve portability of eligible families to any location nationwide where the voucher program is operational except as follows:

1. Housing Choice Voucher (HCV) program participants requesting to port to other housing jurisdictions under HCV Portability rules will not be permitted to port to jurisdictions where the subsidy payment standards are higher than the current subsidy payment standards of BCHA at any time BCHA financial resources are not adequate to assist voucher holders in higher payment standard jurisdictions except when the receiving housing agency agrees to absorb port-in vouchers immediately.
2. A family who was not a resident of BCHA's operational jurisdiction when applying will be required to lease for a minimum of one year in BCHA's operational jurisdiction upon admission to the program.

3. BCHA will not issue a program participant a portable voucher if the family has moved out of the assisted unit in violation of the lease, voucher, this administrative plan or any HUD regulation.

### **DISAPPROVAL OF OWNERS**

BCHA will disapprove owners as required in 24 CFR 982.306(a) and (b) and (d) and may disapprove an owner for any of the reasons listed in 24 CFR 982.306(c).

For all disapproved owners, the owner shall continue to be disapproved for at least five (5) years.

For purposes of this section "owner" includes: a principal or other interested party, a manager, or any person or entity authorized to do business for owner.

### **CHANGE OF OWNERSHIP**

When there is a change of ownership of a unit on which BCHA has executed a housing assistance contract the Housing Authority requires the following:

1. The original owner must notify BCHA in writing of the change of ownership.
2. The new owner must inform Housing Authority in writing of his/her intent to assume the current HAP contract and request approval of a change of ownership on the current housing assistance contract

The following documents must accompany the new owner's request.

- a. Deed of trust or other documentation acceptable to BCHA showing transfer of title, and
  - b. Executed IRS form W-9 which states the new owner's Tax Identification number or Social Security number of a new owner.
3. No rental assistance will be paid to the new owner until steps 1 and 2 above have been completed.

### **REASONABLE RENT**

Reasonable rent is a rent to owner that is not more than rent charged for comparable units in the private unassisted market and for comparable unassisted units on the premises. In determining if the unit is comparable, the PHA weighs the following factors: location, quality, size, unit type, age of unit, amenities, housing services, maintenance and utilities provided in accordance with the lease.

### **PENALTY FOR LATE PAYMENT OF HAP TO OWNERS**

BCHA will pay a late payment fee assessed by an owner for late payment of HAP when the following conditions are met:

- The day of the month and amount of late fees to be charged for late payment of rent is specified in the lease with the assisted program participant, and
- The owner imposes the fees in accordance with generally accepted practices in the local housing market, and
- HUD does not determine that the late payment is due to factors beyond the control of the PHA, and

- Late fees charged by owner do not differ from late charges assessed to unassisted tenants in the same building or complex, and
- Late payment was not due to act or failure to act by the owner.

## **ANNUAL RECERTIFICATION POLICY**

Program participants are required to report **ALL** income, assets and household members at:

1. initial lease and contract for assisted unit, and
2. at regularly scheduled annual re-certifications.

## **INTERIM RECERTIFICATION POLICY**

All changes in income and household size must be reported by program participants to BCHA in writing within 10 calendar days of the date the change occurred.

Rent will be assessed on new or increased **earned** and **unearned** income.

- Earned income is the full amount before any payroll deductions, of wages, salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal service.
- Unearned income includes but is not limited to: Worker's Compensation, TANF, TEEM, VA, SS and SSI benefits, Child Support, Unemployment, Retirement, etc.

Income changes resulting from welfare program requirements. A family covered under Section 12(d) of the 1937 Housing Act is a family that (a) receives benefits for welfare or public assistance from a state or other public agency under a program for which the federal, state or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self sufficiency program, and, (b) resides in an assisted housing dwelling unit.

For welfare sanctions income shall be reviewed and changes in rent charges shall be as follows:

(i) If a covered family is sanctioned by the public assistance agency for their failure to comply with; either an economic self-sufficiency program, or a work requirement, their rent **will not** be reduced proportionally.

(ii) If a covered family loses benefits due to a lifetime time limit on public assistance, their rent **will** be reduced proportionally.

(iii) If a covered family is sanctioned for fraud and their benefits are reduced, their rent **will not** be reduced proportionally.

When a rent reduction will not occur as set out in (1) and (3) above, BCHA will have written verification from the welfare agency that (a) the family's benefits have been reduced, (b) the amount of the reduction, and (c) the reason for the reduction.

When BCHA does not reduce the rent charged proportionally for loss the benefit, the failure to reduce the rent can be appealed by the tenant through BCHA's Grievance Procedure.

A rent review will be conducted and any changes will be made or actions taken which are required as a result of a rent review which is conducted due to a program participant reporting income matching

information to the PHA which they have received from HUD.

## **MANDATED DISALLOWANCE OF INCREMENTAL INCREASES IN ANNUAL EARNED INCOME FOR NEWLY EMPLOYED PERSONS WITH DISABILITIES**

Burleigh County Housing Authority will comply with Section 24 CFR 5.617 regarding this mandated disallowance as set out in Appendix A of this Plan.

## **ADDING OR REMOVING A HOUSEHOLD MEMBER TO THE ASSISTED LEASE**

Adding an Adult: Before an additional adult household member can be added to the lease:

- A request must be submitted in writing to BCHA by the current head of household
- A written statement of approval from the landlord must be provided to Housing Authority
- The individual who wishes to be added as a household member shall be screened for and meet all eligibility criteria prior to moving into the assisted unit the same as any other applicant.

The individual seeking to be added to the lease as a household member may not live in the assisted unit during the period when BCHA is processing their application to determine eligibility. When a determination has been made BCHA will inform the adult requesting to be added to the lease and head of household who made the request in writing whether that individual is approved or disapproved to be added to the household lease.

Adding a Minor: A new household member who is added due to birth, adoption or legal custody must be reported, in writing, to the Housing Agency within ten (10) calendar days of the date the change occurs.

## **REMOVING A HOUSEHOLD MEMBER FROM THE ASSISTED LEASE**

To remove a family member from the assisted lease the following procedures must be followed:

- a. The adult head of household may remove minors from the lease by written request to BCHA. The head of household may be required to provide documentation to show that the minor no longer resides in the unit when BCHA requests such information.
- b. An adult member of the household may only be removed from the lease as follows:
  - (1) The adult member presents a written request to BCHA to be removed from the lease.
  - (2) The court evicts the adult family member from the unit.
  - (3) There is a court restraining or protection order in force which prohibits the adult family member from being in or near the unit.
  - (4) The adult family member is incarcerated for a period to exceed six (6) months.
  - (5) The adult family member is hospitalized for a period to exceed six (6) months.
  - (6) When circumstances arise other than those mentioned above that would not deny or interfere with the removed adult family member's rights under the lease.
  - (7) When a family breakup reduces the number of family members, the occupancy standards and requirements will be reviewed to reflect the reduced size of the family.

## **REMOVING A HOUSEHOLD MEMBER FROM THE APPLICATION**

Family Break-Up – To remove a family member during the application process the adult head of household may remove a minor from the application by written request to BCHA. The head of household may be required to provide written documentation to show that the minor no longer resides with the family.

An adult member may only be removed from the application as follows: a) the adult family member presents a written request to BCHA to be removed from the application, b) there is a court restraining or protection order in force which prohibits the adult family member from being in or near the unit and/or the other adult member, c) the adult family member is incarcerated for a period to exceed six (6) months, d) the adult family member is hospitalized for a period to exceed six (6) months, or e) when circumstances arise other than those mentioned above which would not deny or interfere with the removed adult family member's rights under the application.

## **DENIALS AND TERMINATIONS OF APPLICATION OR ASSISTANCE**

Denial of Assistance to an applicant may include any or all of the following: denial of listing on the waiting list, denial of or withdrawal of a voucher, refusal to enter into a HAP contract or approve a lease and refusal to process or provide assistance under the portability procedures.

Termination of assistance to a program participant may include any or all of the following: refusal to enter into a HAP contract or approve a lease, termination of housing assistance payments under an outstanding HAP contract, or refusal to process or provide assistance under portability procedures.

A. Listed below are the grounds on which BCHA may at any time deny program assistance for an applicant or terminate program assistance for a program participant. The period of ineligibility for the family to apply for or receive assistance through BCHA after the denial or termination of assistance is shown in parenthesis at the end of each ground listed below.

- (1) If the family violates any family obligations under the program as set out in the Voucher, the family's lease or HUD regulations. (1 year for each violation beginning on the date family was denied or assistance terminated)
- (2) If the family currently owes rent or other amounts to BCHA or to another Housing Authority in connection with Section 8 or public housing assistance under a federally-assisted housing program. (1 year for each violation beginning on the date family was denied or assistance terminated and until the family executes and is current on a repayment agreement acceptable to the PHA to whom the money is owed, or the amount is repaid in full.)
- (3) If the family breaches an agreement with BCHA to pay amounts owed to a Housing Authority, or amounts paid to an owner by Housing Authority. ((1 year for each violation beginning on the date family was denied or assistance terminated and until the family brings the repayment agreement back into current status or the amount is repaid in full)
- (4) If the family has engaged in or threatened abusive or violent behavior toward BCHA personnel. (The period of ineligibility will be determined on a case-by-case basis. Period of ineligibility shall begin on the date of the incident. All decisions will be made on the preponderance of the evidence).
- (5) If any member of the family fails to sign and submit consent forms for obtaining information as

required by HUD and BCHA or refuses to sign required evidence of citizenship or eligible immigration status. (1 year per each incident from date of the deadline to provide such information as set by BCHA).

(6) If a member of the household is fleeing to avoid prosecution or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees. (1 year per each incident from the date of the incident of fleeing.)

(7) If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federally-assisted housing program. (Until any amounts owed to BCHA as a result of the fraud are repaid in full, and the following time has elapsed from the date of the incident of fraud:

When the amount of the fraud is:

\$1 to \$1000 - One year per each occurrence

\$1001 to \$4,999 - Three years per each occurrence

\$5000 or more - Five years per each occurrence

(8) If any member of the family commits drug-related criminal activity. (Period of eligibility is as follows:

(a) When the incident is illegal use or possession for personal use the termination or denial shall be in accordance with 24CFR982.553. Should the family fail to show addiction and treatment as required, ineligible for three (3) years per each incident from the date of the incident of illegal use or possession, and

(b) When the incident is selling; illegal manufacture, or distribution or possession with intent to manufacture, sell or distribute a controlled substance, ineligible for five (5) years per incident from the date of incident of selling; illegal manufacture, or distribution or possession with intent to manufacture, sell or distribute a controlled substance.

(9) If any member of the family participates in violent criminal activity. When the incident is violent criminal activity the period of ineligibility will be determined on a case by case basis. When making a determination to deny an application or to terminate assistance because of action or failure to act by members of the family, BCHA has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the actions or failures to act. All decisions will be made on the preponderance of the evidence.

(10) If a member of the household is violating a condition of probation or parole imposed under Federal or State law. (One year per each violation of probation and/or parole. Period of ineligibility shall begin at the date of the incident of violation of probation or parole).

(11) The HAP contract will automatically terminate when 180 calendar days have passed since the last housing assistance payment. (May reapply immediately).

(12) If a family moves during the first 1-year term of an assisted lease, or moves more than once in any subsequent 12-month period without an exception approved in writing prior to the move by BCHA. (1 year per each occurrence from date family was denied or assistance terminated)

(13) If the family is absent from a unit for more than thirty (30) days without written notification to the Housing Agency and the landlord. The written notice required by the Housing Agency from the



program participant shall state: (1) the reason for the absence, and (2) the length of time the family plans to be absent. The allowable absences are medical reasons, imprisonment and school related internships upon receipt of written documentation from the appropriate facility. Absences will be allowed at the Housing Authority's discretion.

When the participating family fails to notify the Housing Agency when determining an unreported absence of 30 days or more the criteria to be used to make this determination includes but is not limited to the following: (1) unpaid rent, (2) utilities have been disconnected, (3) tenant fails to respond to phone calls or written notices by the landlord, law enforcement agencies, social service agencies or the Housing Agency, (4) the mail has not been collected for 30 days or more, or (5) no one has seen anyone in the unit. (Ineligible for 1 year per each occurrence from the date the family was denied or terminated.)

(14) If a family member has knowingly permitted a person who is neither a citizen nor a national of the United States to reside in the assisted housing unit of the family member. (Two years beginning on the date the family was denied or assistance terminated).

B. Listed below are the grounds on which BCHA **must** deny program assistance for an applicant or terminate program assistance for a program participant. The period of ineligibility for the family to apply for or receive assistance through BCHA after the denial or termination of assistance is shown in parenthesis at the end of each ground listed below.

(1) If any family member is subject to a lifetime registration requirement for sex offenders. (**Ineligible for lifetime.**)

(2) Any Applicant/Participant of Burleigh County Housing Authority registered as a lifetime sex offender or Lifetime offender against children will not be eligible to receive assistance from Burleigh County Housing Authority.

(3) If any family member has ever been convicted of manufacturing or producing methamphetamine on the premises of assisted housing. (**Ineligible for lifetime**)

(4) If any family member has been evicted from Public Housing, Indian Housing, Section 23 housing or any Section 8 assisted housing for drug-related activity. (5 years per each incident from date of eviction)

**When making a determination to deny an application for assistance to an applicant or to terminate assistance to a program participant because of action or failure to act by members of the family, BCHA has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the actions or failures to act. All decisions will be made on the preponderance of the evidence.**

## **ADMINISTRATIVE REVIEW**

In order to serve applicants and program participants as quickly and efficiently as possible, an applicant family or a participant family will be offered the opportunity for an administrative review prior to either an informal hearing for either an applicant or program participant upon request by the family to answer family's questions on BCHA's actions or the program guidelines.

## **Procedures for an Administrative Review**

Person designated to conduct the Administrative Review shall be designated by the Director of Housing. Staff assigned to conduct administrative review will attempt to answer the questions of the applicant or the program participant either through telephone communication or a meeting with the family.

If the issues cannot be resolved through an administrative review, the applicant or program participant will be informed of his/her right to an Informal Hearing, when required.

## **INFORMAL HEARING FOR AN APPLICANT**

BCHA will provide an **applicant** the opportunity for an **Informal Hearing** if the applicant is denied participation in the program, except where an informal hearing is not required by HUD (24 CFR 982.554).

The hearing will be conducted by a person or persons designated by BCHA, and will be someone other than a person who made or approved the decision under review or a subordinate of this person.

The applicant will be given written notification of the denial of assistance for either (a) denial of placement on the waiting list, or (b) or denial of issuance of a Voucher which shall state the reason(s) for the denial.

The notice will state that the applicant has a right to request, in writing an informal hearing of the decision within 10 calendar days from the date of the notice to the family.

The informal hearing will be scheduled to be conducted within 10 working days of the request. The applicant shall be provided a written copy of the Informal Hearing Procedures with the notice to deny application or assistance.

## **Procedures for an Informal Hearing for an Applicant**

**The applicant must appear personally at Burleigh County Housing Authority's office, 410 South 2<sup>nd</sup> Street, Bismarck ND to present his/her grievance (phone calls or mailed in requests are not accepted or than as a reasonable accommodation for a person with disabilities who has notified BCHA in advance that he/she cannot comply with that requirement due to a disability condition).**

Any written request must be signed by the applicant. The request must be presented no later than 10 calendar days from the date of the notice of action or proposed action.

The request shall specify:

- (1) The particular ground(s) on which it is based;
- (2) The action requested, and
- (3) The name, address, and telephone number of the applicant and similar information about his/her representative, if any.

The applicant shall be afforded a fair hearing, which shall include:

- (1) The opportunity to examine before the hearing any PHA documents directly relevant to the hearing.

The applicant is allowed to copy any such document at the applicant's expense. If the PHA does not make a document available for examination upon request, the PHA may not rely on such document at the informal hearing.

- (2) The right to be represented by counsel or other person chosen as the applicant's representative.
- (3) The right to present written or oral objections to BCHA's decision.
- (4) A decision based solely upon the preponderance of the evidence presented at the hearing.
- (5) Reasonable accommodations for persons with disabilities to participate in the informal hearing.
- (6) When the program applicant wishes to reschedule the date and time of the scheduled Informal Hearing, the applicant must contact the PHA 24 hours prior to the scheduled Informal Hearing date and time.
- (7) When the applicant fails to appear for the scheduled Informal Hearing, the applicant shall be deemed to have waived his/her right to an Informal Hearing on this matter and the disposition of the grievance proposed by the PHA shall become final.
- (8) A written decision will be issued by the hearing officer within 10 working days of the hearing to the applicant, a copy of the decision will be mailed to the family and a copy will be retained with the application on file at BCHA. This summary will include the names of the program participant's, the date of the informal hearing, the proposed disposition and specific reason(s) therefore.

A decision by the hearing officer in favor of the PHA or which denies the relief requested by the applicant in whole or in part shall not constitute a waiver of the rights of the applicant to judicial review.

## **INFORMAL HEARING FOR A PROGRAM PARTICIPANT**

BCHA will give a **program participant** in the Voucher program the opportunity for an **Informal Hearing** in the following circumstances:

- A determination of the amount of the Total Tenant Payment
- A determination of the utility allowance for tenant-paid utilities from the BCHA utility allowance schedule
- A determination that the program participant is living in a unit with more bedrooms than appropriate under the subsidy standards
- A determination of the number of bedrooms designated on a new voucher for a participating family
- A determination to terminate assistance for a program participant family because of the family's action or failure to act
- A determination to terminate assistance because the program participant has been absent from the assisted unit for longer than the maximum time allowed.
- When a request for reasonable accommodation is denied.

## **Procedures for an Informal Hearing**

For any decision on which a program participant has a right to an informal hearing as described above BCHA will notify the program participant of the decision, their opportunity for an administrative hearing and their right to request an informal hearing in writing within 10 calendar days of the date of

the notice of denial or termination.

The program participant will be provided a written copy of the Informal Hearing Procedures with the notice of denial or termination of assistance.

The informal hearing will be conducted by a person or persons designated by BCHA, and will be someone other than a person who made or approved the decision under hearing or a subordinate of this person.

The Informal Hearing will be scheduled to be conducted within 10 calendar days of the date the written request is received in BCHA's office.

**The program participant must appear personally at Burleigh County Housing Authority's office, 410 South 2<sup>nd</sup> Street, Bismarck ND to present his/her grievance (phone calls or mailed in requests are not accepted or than as a reasonable accommodation for a person with disabilities who has notified BCHA in advance that he/she cannot comply with that requirement due to a disability condition).** Any written request must be signed by the applicant. The request must be presented no later than 10 calendar days from the date of the notice of action or proposed action.

The program participant's request shall specify:

- (1) The particular ground(s) on which it is based;
- (2) The action requested, and
- (3) The name, address, and telephone number of the program participant and similar information about his/her representative, if any.

The program participant shall be afforded a fair hearing, which shall include:

- (1) The opportunity to examine before the hearing any BCHA documents directly relevant to the hearing. The program participant is allowed to copy any such document at the program participant's expense. If the PHA does not make a document available for examination upon request, BCHA may not rely on such document at the informal hearing.
- (2) BCHA must be given the opportunity to examine at BCHA's office, 410 South 2nd Street, Bismarck, ND, before the hearing, any program participant documents that are directly relevant to the hearing. BCHA must be allowed to copy any such document at BCHA's expense. If the program participant does not make the document available to BCHA for examination upon request, the program participant may not rely on the document at the hearing.
- (3) At the program participant's expense the program participant may be represented by counsel or other representative.
- (4) The right to present written or oral evidence and to question witnesses.
- (5) A decision based solely upon the preponderance of the evidence presented at the hearing.
- (6) Reasonable accommodations for persons with disabilities to participate in the informal hearing.
- (7) When the program participant wishes to reschedule the date and time of the scheduled hearing, the program participant must contact the PHA 24 hours prior to the date and time of the scheduled hearing.

(8) Within 10 calendar days of the hearing, the hearing officer will issue a written decision to the program participant, a copy will be mailed to the program participant and a copy will be retained in the program participant 's file at BCHA.

### **Informal Hearing Guidelines**

The Hearing Officer will conduct the hearing in accordance with the following guidelines:

- (1) The program participant or the participant's representative will be given an opportunity first to present his/her objections only to the specific decision pertinent to this hearing. The participant may present evidence or question witnesses at this time.
- (2) BCHA may present evidence and question witnesses. The participant will have the opportunity to question any BCHA witness at this time also.
- (3) When the program participant fails to appear for the scheduled Informal Hearing the participant shall be deemed to have waived his/her right to an Informal Hearing on this matter and the disposition of the grievance proposed by the PHA shall become final.
- (4) The Informal Hearing is not intended to duplicate procedures under judicial review so the rules of admissibility under such proceeding will not be applied in the course of the hearing.

### **Scope of the Hearing Officer's Decision**

A decision by the hearing officer in favor of the PHA or which denies the relief requested by the program participant in whole or in part shall not constitute a waiver of the rights of the program participant to judicial review.

BCHA is not bound by the hearing officer's decision as follows:

- (1) Concerning a matter for which BCHA is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the hearing officer; or
- (2) Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or Local law. If BCHA determines that it is not bound by a hearing decision, BCHA will promptly notify the program participant of this determination and of the reasons for the determination.

### **BCHA is not required to provide a program participant an opportunity for an informal hearing in the following circumstances:**

- (1) Discretionary administrative determinations by BCHA,
- (2) General policy issues or class grievances,
- (3) Establishment of BCHA's schedule of utility allowances for program participant families,
- (4) A determination not to approve an extension of a voucher,
- (5) A determination not to approve a unit, a lease, or a landlord,

(6) A determination that the assisted unit is not in compliance with Housing Quality Standards,

(7) A determination to exercise or not exercise any right or remedy against the owner under the HAP contract.

In the case of a participating family whose assistance is being terminated when the family is currently living in a unit with an active Housing Assistance Payments Contract, BCHA will provide an opportunity for an Informal Hearing before the actual termination of housing assistance payments.

## **COLLECTION POLICIES**

In the interest of sound fiscal management and program integrity BCHA will make all reasonable efforts to collect amounts owed for unreported income, unpaid rent, damages and/or move-out charges to landlords while on assistance, to a housing authority, or to a collection agency. The following procedures will be followed to ensure maximum collection of applicant/program participant debt.

- Applicants - No applicant will be placed on the Voucher waiting list until any/all known debts owed to any landlord while on assistance, housing authorities or collection agencies are paid in full.
- Program participants - Program participants in the Voucher Program must agree to repay amounts owed BCHA to be eligible for continued assistance. The following procedures will be followed for program participants:

Unreported Income - A repayment agreement will be negotiated when the amount of overpayment of housing assistance payments has been established. A repayment agreement will be executed with the minimum monthly payment established according to BCHA's collection policy (Appendix B).

Fraud - Fraud cases that result in an amount that exceeds \$500 may be referred to the Bismarck City Attorney or the Burleigh County States Attorney for prosecution. Fraud cases that equal \$1,000 or more will be referred to the Bismarck City Attorney or the Burleigh County States Attorney for prosecution.

A family who owes money to a landlord while on assistance, to a housing authority, or to a collection agency will not be issued a voucher to be admitted to the program, to move or to port unless the amount owed is repaid in full.

## **FRAUD RECOVERY**

Where BCHA is the principal party initiating or sustaining an action to recover amounts from tenants that are due as a result of fraud and abuse, the Housing Agency will retain the greater of: (1) Fifty (50) percent of the amount it actually collects from a judgment, litigation (including settlement of lawsuit) or an administrative repayment agreement; or (2) reasonable and necessary costs that BCHA incurs related to the collection from a judgment, litigation (including settlement of lawsuit) or an administrative repayment agreement. Reasonable and necessary costs include the costs of the investigation, legal fees and collection agency fees. If HUD incurs costs on behalf of BCHA in obtaining the judgment, these costs will be deducted from the amount to be retained by BCHA.

In addition to the action prescribed in this section, BCHA will on a case-by-case basis pursue collection of debt through the judicial system in order to secure legal judgments and enhance the potential for collection.