

## Chapter 15

### PROGRAM INTEGRITY

#### INTRODUCTION

COC is committed to ensuring that funds made available to COC are spent in accordance with HUD requirements.

This chapter covers HUD and COC 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 COC policies related to preventing, detecting, and investigating errors and program abuse.

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

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

##### **15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

HUD created the Enterprise Income Verification (EIV) system to provide COCs with a powerful tool for preventing errors and program abuse. COCs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. COCs are further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to COCs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

##### COC Policy

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

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

COC will provide each applicant and resident with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

COC will provide each applicant and resident with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, COC

will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

COC will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. COC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

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

COC will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key COC forms and form letters that request information from a family member.

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

At every regular reexamination COC staff will explain any changes in HUD regulations or COC policy that affect residents.

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.

## **15-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

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

### **Quality Control and Analysis of Data**

#### COC Policy

COC will employ a variety of methods to detect errors and program abuse, including:

COC routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to COC.

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.

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

## **Independent Audits and HUD Monitoring**

Notice PIH 2015-16 requires all COCs 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 COC activities and notifies COC of errors and potential cases of program abuse.

### COC Policy

COC 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 COC's error detection and abuse prevention efforts.

## **Individual Reporting of Possible Errors and Program Abuse**

### COC Policy

COC will encourage staff, residents, and the public to report possible program abuse.

## **15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When COC Will Investigate**

#### COC Policy

COC 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 COC 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.

COC will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

### **Consent to Release of Information [24 CFR 960.259]**

COC may investigate possible instances of error or abuse using all available COC and public records. If necessary, COC will require families to sign consent forms for the release of additional information.

### **Analysis and Findings**

#### COC Policy

COC 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 COC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed COC, 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 COC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

### COC Policy

In the case of family-caused errors or program abuse, COC 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.

## **Notice and Appeals**

### COC Policy

COC will inform the relevant party in writing of its findings and remedies within 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 COC 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 hearing or grievance hearing (see Chapter 14).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **15-II.A. UNDER- OR OVERPAYMENT**

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect rental determination is an overpayment or underpayment, COC must promptly correct the tenant rent and any utility reimbursement prospectively.

##### COC Policy

Increases in the tenant rent will be implemented on the first of the month following a written 30 day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

#### **Reimbursement**

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

## **15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent 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 COC to use incorrect information provided by a third party.

### **Family Reimbursement to COC**

#### COC Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. COC may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, COC will terminate the family's lease in accordance with the policies in Chapter 13.

### **COC Reimbursement to Family**

#### COC Policy

COC will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

### **Prohibited Actions**

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to COC [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to COC [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

#### COC Policy

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

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

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to COC 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., misreporting of income or 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

COC 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 COC may, at its discretion, impose any of the following remedies.

- COC may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to COC).
- COC 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 13 (for residents).
- COC may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- COC may refer the family for state or federal criminal prosecution as described in section 15-II.D.

### **15-II.C. COC-CAUSED ERRORS OR PROGRAM ABUSE**

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

COC-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

**The following policy is effective upon the PHA's HOTMA 102/104 compliance date:**

#### **De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]**

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

#### COC Policy

COC will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

## **Prohibited Activities**

### COC Policy

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

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to COC

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of COC activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment

Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment, where COC knew or should have known such harassment was occurring

Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment

## **15-II.D. CRIMINAL PROSECUTION**

### COC Policy

When COC determines that program abuse by a family or COC staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, COC will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent 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 public housing program will be referred to the appropriate local, state, or federal entity.



## **15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES**

COCs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that COC recovers [Notice PIH 2007-27 (HA)].

If COC does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through COC's grievance process.