

INFORMAL HEARING – VOUCHER PROGRAM

Section 1:

A participant has a right to an Informal Hearing in the following circumstances:

1. A determination of the amount of the total Tenant Payment.
2. A decision to terminate or deny assistance on behalf of the participant.
3. A decision to deny a request to move.
4. A determination that the participant is living in a unit with more bedrooms than appropriate under the occupancy standards and the MHA has denied a request for a waiver of the occupancy standards.
5. A determination of the number of bedrooms designated on a new Voucher for a participating family.

Section 2: A participant does not have a right to an informal hearing in the following circumstances:

1. Determination of family unit size under MHA subsidy standards.
2. Refusal to extend or suspend a voucher.
3. MHA determination not to grant approval of tenancy or a lease.
4. Determination that unit is not in compliance with HQS (if it is Landlord responsibility - MHA must provide hearing in the case of a family's breach of HQS because it is a family obligation determination).
5. Determination that unit is not in accordance with HQS due to family size or composition.
6. Discretionary administrative determinations by MHA.
7. General policy issues or class grievances .
8. Establishment of MHA schedule of utility allowances.
9. MHA determination to exercise or not exercise any right or remedy against the Owner under a HAP contract.
10. Any determination that has another review process, such as Request for Reasonable Accommodation.

Section 2:

The procedures for an Informal Hearing are:

1. The procedures for requesting and conducting an informal hearing will be provided to each family during the Voucher briefing and again whenever a decision subject to hearing is made, except the Total tenant Payment.
2. In the case of a participating family whose assistance is being terminated and the family is currently living in a unit with an active Housing Assistance Payment's Contract, the MHA will provide an opportunity for an informal hearing before the actual termination of the housing assistance payments.
3. Once a determination or decision is made as described in Section 1, the MHA will notify the participant of the determination or decision, the participants right to request further explanation within 3 business days of notice the determination or decision, and the participants right to request an informal hearing in writing, within ten (10) business days of the notice or within ten (10) business days of the explanation, if participant requests further explanation.
4. If no informal hearing is requested, the decision becomes effective ten (10) business days after the notice or ten (10) days after further explanation.
5. The MHA will schedule the informal hearing within ten (10) business days of MHA's receipt of the written request for an informal hearing. The MHA will select a Hearing Officer and schedule the informal hearing. The MHA will send written notification of the date, time and place of the informal hearing to the participant. The Informal Hearing Officer will be someone other than the person who made the decision under review or a subordinate of that person. Such person may be an MHA staff member.
6. The participant shall be given the opportunity, any time prior to the informal hearing, to examine and copy (at participant's expense) relevant MHA documents.
7. The participant may be represented by a lawyer or other representative.
8. The Informal Hearing Officer will be responsible to conduct the hearing in accordance with the following guidelines:
 - a. The Informal Hearing is not intended to duplicate procedures under judicial review so the rules of admissibility under such proceedings will not be applied in the course of the informal hearing.
 - b. The MHA or MHA's representative will present an overview of the circumstances requiring an informal hearing, including the determination or decision that was made that is the subject of the informal hearing as well as a history of the actions taken.
 - c. The participant or the participant's representative will be given an opportunity to present his/her objections to the specific determination or decision that is the subject of the informal hearing. The participant may present evidence or question witnesses at this time.
 - d. The MHA or the MHA's representative will then have an opportunity to further explain the determination or decision and to rebut the objections of the participant. The MHA may present evidence and question witnesses. The participant will then have the opportunity to question any MHA witnesses.
 - e. Within ten (10) business days after the informal hearing, the Informal Hearing Officer will issue a written decision stating his or her decision and the reasons for the decision. A written decision may be issued at the hearing. The decision will be based on the evidence presented at the hearing. The MHA will send a copy of the decision by certificate of mailing to the participant within three (3) business days of receipt of the informal hearing officer's decision unless the decision was rendered at the informal hearing and given to the participant.

9. The MHA is not bound to the informal hearing decision under the following circumstances:
 - a. When the decision rendered concerns or is based on an issue that is not identified as eligible for an Informal Hearing.
 - b. When the decision is contrary to HUD regulations, requirements or Federal, State and local law.
 - c. The MHA will notify the participant whether or not MHA agrees with the informal decision within (five) 5 business days of the date the decision was made by the Informal Hearing Officer.