

811 Project Rental Assistance Tenant Selection Plan and Process

Tenant Eligibility: At the time of admission, at least one person in a household considered for a unit receiving 811 Project Rental Assistance (PRA) subsidies must be non-elderly (18-61 years of age), have a disability, and receiving or be eligible to receive Medicaid services and supports provided through the Montana Department of Public Health and Human Services (DPHHS). Individuals must have extremely low incomes at or below 30% of Area Median Income (AMI), and be in the Big Sky Waiver, Senior and Long Term Care Division (SLTC), or the Severe Disabling Mental Illness (SDMI) waiver, Addictive and Mental Disorders Division (AMDD) or be in the Money Follows the Person (MFP) program.

1. The Montana Department of Commerce (MDOC) Housing Division will secure Rental Assistance Contracts (RACs) in the following four communities, Billings, Kalispell (Flathead County), Missoula, and Helena. MDOC will provide SLTC and AMDD a list of available units.

2. Existing Medicaid waiver programs in the four communities, Billings, Kalispell (Flathead County), Missoula, and Helena use their existing network of case management teams to identify potential tenants from their waiver waiting lists or current caseload. MFP will identify potential tenants from its lists of active referrals.

3. Case managers will:

- Work with local housing project managers directly to distribute the PRA Demo vouchers.
- Provide prospective tenants a thorough explanation of the 811 PRA Demonstration program.
- Explain the role of services in housing retention.
- Make clear that acceptance of services is voluntary.
- Explain the voluntary Release of Information form between Housing Assistance Bureau staff and DPHHS staff and their case managers for issues related to potential evictions allowing timely information exchange between the two agencies.
- Refer and/or assist waiver recipients to apply for available 811 PRA units.

4. Application Process

- 811 applicants will apply for housing by filling out the applicable property application form
- Need for accessible unit will be specified on the application form
- Property staff will determine the income eligibility of the prospective tenant and inform MDOC Section 8 staff, case manager and prospective tenant if they qualify for the PRA Demo unit.
- MDOC Section 8 Program staff will then follow PRA Demo procedures for contracting the unit into the program, and updating tenant and unit information for units already in the PRA Demo program.

5. Selection Process

- Applications will be considered on a first come first serve basis according to date stamp on the application.
- Applicants must meet 811 PRA eligibility requirements, income qualifications, and be approved by MDOC Section 8 Program.
- Accessible units will be matched with applicant's needs.
- Property units and 811 tenants are subject to Occupancy Standards as stipulated in Section 811 PRA Program Guidelines.
- 811 properties and tenants are subject to unit transfer and relocation provisions as specified in Section 811 PRA Program Guidelines.

6. An applicant will be offered a unit upon application approval. The applicant can accept or decline the offer. The applicant can decline a unit three times in each community. Upon declining the third time they will be moved to the bottom of the waitlist.

7. Upon acceptance of a unit, an applicant will work with property managers to complete the lease agreement. Case managers can assist if necessary.

8. Tenant moves into the unit.

9. Reasonable Accommodation/Modification Policy

- Applicants/Tenants that request reasonable accommodations and/or modifications will follow the processes that are outlined in Section 811 PRA Program Guidelines, in congruence with federal fair housing law.

10. Section 811 PRA applicants/tenants have appeal rights as outlined in Section 811 PRA Program Guidelines.

11. Appendix: Affirmative Fair Housing Marketing Plan.

12. Reference: HUD Handbook 4350.3 for additional reference and program guidance.

- A. The tenant selection plan must include a written policy that describes when applicant names will be removed from the waiting list. Examples of applicant removal policies an owner may adopt are:
 - 1. The applicant no longer meets the eligibility requirements for the property or program;
 - 2. The applicant fails to respond to a written notice for an eligibility interview;
 - 3. The applicant is offered and rejects two units in the property (or any number of unit offers as specified in the owner's written policies);
 - 4. *The applicant fails to provide SSNs for all household members.*
 - 5. Mail sent to the applicant's address is returned as undeliverable; or
 - 6. The unit that is needed – using family size as the basis – changes, and no appropriate size unit exists in the property.
- B. The owner must periodically print out electronic waiting lists or preserve backup copies showing how the waiting list appeared before and after the removal of each name.

4-21 Reinstating Applicants to the Waiting List

If an applicant is removed from the waiting list, and subsequently the owner determines that an error was made in removing the applicant (e.g., the incorrect address was used in sending mail to the applicant, the applicant did not respond to information or updates because of a disability), the applicant must be reinstated at the original place on the waiting list.

4-22 Record-Keeping

- A. The owner must retain current applications as long as their status on the waiting list is active.
- B. Once the applicant is taken off the waiting list, the owner must retain the application, *form HUD-92006 completed by the applicant*, initial rejection notice, applicant reply, copy of the owner's final response, and all documentation supporting the reason for removal from the list for three years.
- C. When an applicant moves in and begins to receive assistance, the application *and form HUD-92006 completed by the applicant* must be maintained in the tenant file for the duration of the tenancy and for three years after the tenant leaves the property.
- D. All files must be kept secure so that personal information remains confidential.
- E. The applicant's or tenant's file should be available for review by the applicant or tenant upon request or by a third party who provides signed authorization for access from the applicant or tenant. *EIV income data found in the tenant's file has additional disclosure requirements (see paragraph 9-18).*
- F. The owner must dispose of applicant and tenant files and records in a manner that will prevent any unauthorized access to personal information, e.g., burn, pulverize, shred, etc.
- G. Owners must keep records and submit reports and information as required by HUD to enable HUD and the owner to ascertain whether the owner has complied, or is complying with, nondiscrimination requirements. (See Chapter 2.)

Section 4: Selecting Tenants from the Waiting List

4-23 General

- A. Once an owner has solicited applications and developed a waiting list for applicants for whom no unit is immediately available, the owner must select applicants from the waiting list and offer units in the order required by HUD rules and owner policies. This section describes options for the owner and provides guidance on how to carry out these activities.
- B. When a unit becomes vacant, the owner must select the next applicant from the waiting list based on the unit size available, preferences established for the property, income-targeting policies and requirements, *disclosure and verification of SSN(s)* and screening policies applied by the owner. The owner will select the first name on the waiting list for the appropriate unit size (or list of names for units reserved for disabled applicants) and make a final determination of eligibility and suitability for tenancy, using the criteria described in Chapter 3, Sections 1 and 2, and the procedures in this section.

4-24 Applicant Interviews

- A. When an appropriate unit will be available in the near future, the owner must interview an applicant and obtain current information about the family's circumstances. For documents that an owner may ask applicants to bring to the interview, see Exhibit 4-1.
- B. At the interview, the owner must:
 - 1. Confirm and update all information provided on the application. If a pre-application was submitted, complete a full application form and confirm and update the information.

2. Explain program requirements, *including use of the information contained in the EIV system*, verification procedures, and penalties for false information. The penalties include eviction, loss of assistance, fines up to \$10,000, and imprisonment up to five years.
3. Obtain family income and composition information and other data needed to verify eligibility and compute the tenant's share of the rent. (See Chapter 5.)
4. Review the financial information on the application and specifically ask the tenant whether any member of the household:
 - a. Receives any of the types of income listed in Chapter 5, Section 1 (e.g., self-employment income, unemployment compensation, income maintenance payments). If it appears likely that an applicant is receiving a form of income not reported on the application, ask the applicant about that source of income and document the applicant's response in the file; and
 - b. Has any assets. (See paragraph 5-7 for a description of assets.)
5. Ask the head of household, spouse, or co-head, and household members age 18 and over to sign the release of information consent portion of the Authorization for Release of Information (Forms HUD 9887 and 9887-A) and any other necessary verification requests.
6. Obtain declaration of citizenship (see Exhibit 3-5) and verification consent forms (see Exhibit 3-6) for verification from all household members as appropriate.
7. Inform the applicant of the screening requirements used by the owner, *including use of the Existing Tenant Search in EIV for determining if the applicant, or a member of the applicant's family, is receiving HUD's rental assistance at another location.* (If the owner performs screening activities, a consent to check landlord or credit history should also be obtained).
8. Require the head of household, spouse, or co-head to give a written certification as to whether any family member did/did not dispose of any assets for less than fair market value during the two years preceding the effective date of the certification/recertification.
 - a. The certification must include a list of all assets disposed of for less than fair market value, the dates disposed of, the amount received, and the asset's market value at the time of disposition.
 - b. HUD does not prescribe a form for this certification. It may be part of an application form or a separate form.

NOTE: Owners need not obtain this information if the family is being considered only for a unit in a BMIR project without rental assistance because the disposal of assets does not affect income and rent calculations for BMIR tenants who do not receive rental assistance.
9. *Require disclosure and verification of SSNs for all household members, except those who do not contend eligible immigration status, and tenants age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, and provide verification of the complete and accurate SSN assigned to them. (See paragraph 3-9 for more information on SSN disclosure and verification requirements.)*
10. Advise the family that HUD will compare the information supplied with information federal, state, or local agencies have on the family's income and household composition. *This will include the employment and income information received from SSA's and HHS' NDNH databases through HUD's Computer Matching Agreements with these agencies.*
11. Tell the family that a final decision on eligibility cannot be made until all verifications are complete.
12. Provide each *applicant* with a copy of the appropriate HUD fact sheet, which describes how the tenant's rent is calculated.
13. *Provide each household with copies of the *EIV & You* and the *Resident Rights and Responsibilities* brochures.*
14. Inform the family that federal laws prohibit the owner from discriminating against individuals with disabilities. In summary, owners have responsibilities for making reasonable accommodations in policies, providing auxiliary aids, making units and facilities accessible, and permitting disabled persons to use assistance animals when they may provide the tenant with equal housing opportunities.

15. Inform all applicants of housing for the elderly or disabled about the rules on owning pets. (See paragraph 6-10.)
- C. Generally, owners may not require tenants to participate in congregate meals or other services. However, in properties for the elderly or disabled for which HUD approved a mandatory meals program before April 1, 1987, the owner must inform all applicants about:
 1. The requirement to execute a meals contract. A meal contract is a separate contract incorporated as part of the lease that states in part:
 - a. Substantial failure by a tenant to comply with the mandatory meals agreement will be a violation of the lease and will subject the tenant to eviction procedures in accordance with the lease;
 - b. The number of meals required to be purchased;
 - c. The duration of the meals agreement;
 - d. The charges for the meals at the time the agreement is signed; and
 - e. The exemptions from purchasing meals and the requirements to obtain these exemptions.
 2. Exemptions from purchasing meals may be made due to:
 - a. Medical conditions;
 - b. A paying job that keeps the tenant away from the property at meal time;
 - c. Other absence from the property;
 - d. Permanent immobility; and/or
 - e. Discretionary exemptions, such as dietary practices, financial reasons, or religious reasons.

4-25 Applying Income Targeting Requirements in Section 8 Properties

- A. HUD does not prescribe a method to ensure compliance with income-targeting. Sample steps that an owner may want to follow are listed in Figure 4-6.

Figure 4-6: Sample Steps Owners May Use to Implement Income-Targeting

Step 1: Estimate annual turnover for the property based on turnover history.

Step 2: Analyze the waiting list by income category, looking particularly at the top of the list, that is, those applicants who are likely to be offered units during the coming year.

Step 3: Take no action if at least 40% of the applicants on the waiting list who are expected to be offered units during the year have incomes at or below the extremely low-income limit. Applicants may be admitted in order, and compliance with the income-targeting rules will likely be achieved. Monitor quarterly to confirm compliance.

Step 4: If at least 40% of the applicants who are expected to be offered units in the next year do not have incomes at or below the extremely low-income limit, then the property must establish tenant selection procedures to ensure that the 40% requirement is met. Owners should also consider increasing their efforts to market to extremely low-income applicants to ensure that a sufficient number of applicants on the waiting list meet the income-targeting requirements.

See the discussion and examples following this figure for methodologies designed to achieve the income targeting requirements.

- B. Owners may not select families for unit/property occupancy in an order inconsistent with the waiting list in order to house relatively higher-income families. However, an owner may select a family for occupancy of a property or unit based on its extremely low-income status in order to satisfy income-targeting requirements. (See paragraph 4-5 for an explanation of the income-targeting requirement.)
- C. Regardless of the method chosen to comply with the income-targeting rule, the results should be monitored quarterly and adjusted if necessary. The selected method must be stated in the property's tenant selection plan.

NOTE: Tracking initial admissions to the Section 8 project based assistance program is important to ensure accurate tracking. For example, an initial certification processed to move a tenant from Section 236 assistance to Section 8 assistance is counted for income targeting.

Example

A 100 unit Section 236 property with 50 Section 8 subsidy units is 100% occupied and has very little turnover. A Section 8 tenant moves out of the property. The manager would like to give the Section 8 assistance to a Section 236 very low-income family who qualifies for Section 8 assistance but must be sure that income targeting requirements will be met. If the owner determines that the income targeting requirement cannot be met by initially certifying a low-income tenant, the owner must fill the vacancy with an extremely low-income family from the waiting list.

- D. Occupancy records must be kept so that auditors and those performing management reviews can monitor for compliance with the income-targeting requirement. Reviewers will check the tenant selection plan for a written description of the process and then review the admissions to ensure that the process was followed and the results are in compliance. Both move-in and initial admissions records must be maintained for auditing purposes.
- E. If an owner actively markets to extremely low-income families but is unable to attract a sufficient number to lease 40% of available units during the year to extremely low-income families, the owner may rent to other eligible families after a reasonable marketing period.
- F. To market adequately the owner must, at a minimum, advertise in the locality and conduct outreach to local organizations serving the extremely low-income population for no less than 30 days. If, after that period of time (with documentation of the marketing efforts), the owner is unable to attract eligible extremely low-income applicants, the owner may admit other eligible families. The owner must continue to advertise to extremely low-income applicants. Both the initial and ongoing marketing must be in compliance with the Affirmative Fair Housing Marketing Plan.
- G. The owner must maintain records that demonstrate to HUD's satisfaction that all reasonable steps were taken to fill these units with extremely low-income tenants.
- H. Whatever method is used by owners to meet the income targeting requirement for Section 8 properties, they must periodically monitor actual admissions to ensure that at least 40% of admissions are extremely low-income families.
 - 1. If an owner chooses to follow the waiting list chronologically and through monitoring determines that the income-targeting goal will not be met, a specific targeting methodology may be implemented during the year. (See Example 1 – Income-Targeting Method below.) In such circumstances, the owner must clearly document in property records the date of any revision to the property's income targeting procedures. In addition, the owner must make the revised methodology very clear to any applicants who are selected from the waiting list after the change in methodology.
 - 2. If an owner uses a method other than the standard waiting list order, and the monitoring results show that more than 40% of admissions are extremely low-income families, the owner may revise the tenant selection procedure to follow the waiting list in chronological order for the remainder of the year. Again, if the method is changed mid-year, documentation must be kept indicating the reason and date of such change.
 - 3. An example of an admissions log is shown below. An owner can use this type of log to monitor the percentage of extremely low-income admissions to a property during the year. In the example below, assume that the owner's methodology is to alternate between the first extremely low-income applicant on the waiting list and the eligible applicant at the top of the waiting list.
- I. Owners of properties with project-based Section 8 must comply with TRACS income-reporting requirements that will permit HUD to maintain the data necessary to monitor compliance with income-targeting requirements.