

Appeals/Grievance Procedures

General Policy

Both applicants and tenants of the Section 8 Program have the right to appeal certain decisions rendered by the HA which directly affect their admission to, or participation in, the program. These persons may exercise these rights following the procedures in the HA's grievance procedure, as set forth here.

Affected families will be notified in writing of their opportunity to appeal the decision and the process for requesting such appeal. All appeals must be requested in writing and must be received by the HA within an established timeframe, which is general 10 working days from the date of the correspondence advising of the HA's decision.

The HA's grievance process has the potential for two appeal meetings:

first, an Informal Meeting, which is conducted with HA staff

final, an Informal Review or Hearing, which is conducted with an independent Hearing Officer

Informal Meetings

Whenever the HA issues a decision affecting an applicant or participant family, the HA offers an opportunity to appeal the decision. The HA will offer the opportunity for an Informal Hearing to all families, regardless of their ability to further appeal.

If a family appeals, the HA will schedule an Informal Meeting with HA staff (the Housing Counselor who was working with the family and the Housing Program Supervisor and/or Chief of Housing & Community Development).

Affected families may bring individuals that they believe may be able to offer information on behalf of the family, including representatives from other agencies. The HA also may request attendance at the Informal Meeting by other individuals who provided information that the HA will present to the family as evidence.

During the Informal Meeting, HA staff will detail for the family the decision that was made, the federal or HA guidelines that apply, the reason for the decision, including any evidence the HA has compiled. After the HA has reviewed such information, the family will be provided an opportunity to question the HA's interpretation of the situation, dispute any evidence or provide other relevant information that might be considered mitigating circumstances.

In order to ensure that all relevant information is considered, the HA may request additional documentation from the family and may schedule a follow-up meeting to finalize the first appeal. The HA will establish a fixed timeframe by which the family must provide any additional documentation in order for it to be considered.

After conclusion of the Informal Meeting, the HA will consider all information presented by the family and issue a decision as to whether:

- # the HA's decision was appropriate and the decision remains in effect
- # the HA's decision should be rescinded

The HA will notify the family, in writing, with five working days following the completion of the Informal Meeting process, of the HA's determination. If the HA upholds its original decision, the family will be offered an opportunity to further appeal to the independent Hearing Officer, who will conduct either an Informal Review (for applicants) or an Informal Hearing (for participants).

If a family fails to attend the scheduled meeting (or to contact the HA in advance to reschedule the Informal Meeting), the initial determination of the HA will remain in effect. The HA will issue a letter so advising the family.

Informal Review/Hearing

When the HA issues a determination, after conducting an Informal Meeting, the HA will advise families whether they have the right to further appeal. Applicant families who can further appeal will be offered an Informal Review with the independent Hearing Officer. Participant families who can further appeal will be offered an Informal Hearing with the independent Hearing Officer.

Appeals by applicants and participants of the HA's Section 8 Rental Assistance Program shall be handled as outlined in the HUD regulations for Informal Hearings.

Decisions that Can Be Appealed

Applicants will be provided an opportunity for an Informal Review of decisions denying:

- # Listing on the HA's waiting list.
- # Issuance of a Section 8 Certificate or Housing Voucher.
- # Participation in the program.

Participants will be provided an opportunity for an Informal Hearing of decisions regarding:

- # Calculation of income, the total tenant payment or tenant rent.
- # Determination of appropriate utility allowance for assisted units.
- # Termination of assistance due to a family's action or failure to act.
- # Termination of assistance due to a family's absence from an assisted unit for a period that exceeds the maximum time allowed under HA policy and HUD rules.
- # Determination that a family is over-housed and is denied an exception to the Occupancy Standards.
- # Determination of bedroom size on the Certificate or Voucher.

Decisions that Cannot be Appealed

- # Determination of bedroom size on the Voucher for an assisted family that wants to move to another dwelling unit with continued participation.
- # Rejection of a unit that does not meet Housing Quality Standards.

- # Rejection of a unit that is not in accordance with Housing Quality Standards because of family size or composition.
- # Refusal to extend or suspend a Voucher.
- # Denial of issuance of a Voucher (and return to the Waiting List) based on failure to satisfy a preference or targeting requirement.
- # Failure of a unit for Housing Quality Standards violations.
- # Refusal to approve a unit or proposed lease.
- # HA determination to exercise or not exercise any right or remedy against any owner.
- # Determination of the schedule of utility allowances.
- # Application of discretionary administrative procedures or HUD policies and procedures.

Families will be notified in writing of their right to an Informal Review/Hearing in most circumstances in which the HA makes a decision affecting their eligibility or assistance. The notice will include:

- # The reason(s) for the decision.
- # The procedures for requesting an Informal Review if the applicant does not agree with the determination.
- # The time frame for requesting a review.
- # Sample form for requesting an Informal Review/Hearing.
- # A contact person and phone number to be used to reschedule the Hearing if the time set is inconvenient. The rescheduled date must be within one week of the time originally scheduled, unless the family can prove that they were previously scheduled to be out of the location within that period or had a prior commitment.

Selection of Hearing Official or Panel

Informal Reviews/Hearings will be conducted by the Hearing Officer designated by the Board of Commissioners, who is neither the person who made or approved of the decision under review nor a subordinate of such person.

The Deputy County Administrator for Charles County Government currently serves as the Hearing Officer.

Review/Hearing Policies

The request for the Informal Review/Hearing must be presented in writing to the HA and must be received within 10 days of the date of the written notification of the decision. The request must be signed by the complainant and include the name, address, and telephone number of complainant and similar information about his/her representative, if any, and must state the reason for the request for Informal Review.

The HA will notify the complainant of a date and time for the Informal Review/Hearing within 10 working days of receipt of such request.

Families have the right to:

Examine before the hearing any documents relevant to the review/hearing and to make copies of such at their own expense. The Informal Meeting serves as “discovery” for purposes of ensuring that both the HA and the family are aware of all relevant information. Should the HA not make these documents available to the family, the HA cannot rely on them at the Review/Hearing.

Present evidence and/or witnesses.

Request that Section 8 staff be available or present at the Review/Hearing to answer questions pertinent to the case.

Be represented by legal counsel or other designated representative at their own expense (with five days' notice to the HA of the designated person).

In addition to the other requirements contained in this section, the HA has a right to:

Present evidence and/or witnesses and any information pertinent to the issue of the review/hearing.

Be notified if the family intends to be represented by legal counsel or another party.

Have its attorney present.

Have the staff person familiar with the case be present.

The Informal Review/Hearing will concern only the issues directly related to the HA decision in question. Evidence presented at the review/hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Review/Hearing will be held before the Hearing Officer. The written procedures included as Appendix A of this Chapter will be followed and will be provided to the family when the Review/Hearing is scheduled.

The family will be provided the option of presenting oral or written objections to the decision in question. Both the HA and the family must have the opportunity to present evidence and/or witnesses.

The Hearing Officer may regulate the conduct of the review/hearing to ensure that the Review/Hearing is conducted orderly. The Hearing Official will require that the HA, complainant, counsel, and other participants and spectators conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in exclusion from the proceedings or a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

The Hearing Officer will make a determination on how the rule or regulation was correctly or incorrectly applied to the information submitted at the Review/Hearing.

Families will be notified of the results of the Review/Hearing as follows:

A written notice of the decision will be sent to the family within 14 calendar days of the decision.

If the decision is based on money owed, the amount owed shall be stated.

The date the decision goes into effect.

The HA is not bound by Review/Hearing decisions:

When the grievance does not concern HA action or failure to act in accordance with or involving the complainant's lease or HA regulations which adversely affect the complainant's rights, or status.

Concerning matters in which the HA is not required to provide an opportunity for a review/hearing.

Contrary to HUD regulations or requirements.

Contrary to federal, state, or local laws.

That exceed the authority of the person conducting the Review/Hearing.

The HA shall send a letter to the participant within 14 calendar days if it determines the HA is not bound by the Hearing Officer's determination. The letter shall include the HA's reasons for the decision.

Provided that the HA takes all necessary action to carry out the decision rendered by the Hearing Officer, the complainant waives the right to any future grievances regarding this specific matter.

A decision by the Hearing Officer in favor of the HA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect, in any matter whatever, the rights the complainant may have to judicial review in any proceedings.

All requests for an Informal Review/Hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

Failure to Request an Informal Review/Hearing

If the family does not request an Informal Review/Hearing within 10 working days, the family waives its right to a review, and the HA's decision becomes final.

The above determination shall in no way constitute a waiver of the complainant's right to contest the HA's decision in an appropriate judicial proceeding.

Failure to Appear for an Informal Review/Hearing

After a Review/Hearing date is agreed to, the family may request to reschedule or continue the hearing only upon showing "good cause," which is defined as an unavoidable conflict in a meeting time with another agency or a doctor or company which seriously affects the health, safety, or welfare of the family.

The hearing may be rescheduled if a scheduling conflict arises with the Hearing Officer.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the HA within 48 hours (excluding weekends). The HA will reschedule the hearing only upon a showing of good cause for the family's absence as previously defined. The hearing will be rescheduled, in this event, only one time.

Effect of Appeal on Termination of HAP Payments

For decisions regarding termination of assistance for the family, the HA provides 60 days' notice to both the owner and the family. The 60 days' notice is provided to ensure adequate time is provided to complete the appeals process. However, if circumstances occur that result in the appeals process extending beyond the effective date of termination, the HA will continue paying HAP until the appeals process is complete.

If the determination of the HA is upheld through the appeals process, the final HAP payment will be issued for the later of the month that is:

- # the established month the termination is to be effective, in accordance with the notice provided to the landlord.

- # the month in which the final decision is rendered.

Family Changes During the Appeals Process

The HA may implement the following changes prior to the hearing:

- # Changes in the total tenant payment or tenant rent to owner (not including changes in the HA's Utility Allowance Schedule).

- # Denial of a new Voucher for a family that wants to move.

- # A determination that a family is residing in a unit with a larger number of bedrooms than appropriate under the Occupancy Standards and denial of an exception.

- # Determination of number of bedrooms on a Voucher.