
Chapter 3 – Reasonable Accommodation and Reasonable Modification in the Housing Choice Voucher Program

KEY CONCEPTS

FEDERAL FAIR HOUSING LAWS REQUIRE

that public housing agencies (PHAs) provide reasonable accommodation in their Housing Choice Voucher (HCV) policies and procedures if needed to help people with disabilities (including, by definition, people experiencing chronic homelessness) benefit from the program.

PHAS ARE REQUIRED TO INFORM all HCV applicants and participants of their right to request a reasonable accommodation.

PHAS MUST HAVE A PROCESS for HCV households to make accommodation requests and for determining whether these requests are reasonable.

UNFORTUNATELY, SOME PHAS ARE STILL UNSURE about their obligations under the fair housing laws and may not understand all their responsibilities with regards to reasonable accommodation.

REASONABLE MODIFICATION POLICIES REQUIRE an owner participating in the HCV program to allow a person with a disability — at their own expense — to make certain physical modifications to a unit if needed to fully use and enjoy the housing unit.

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Using Fair Housing Laws to Make the Housing Choice Voucher Program Accessible

Although there are many features of the Housing Choice Voucher (HCV) program that can help chronically homeless people and others with disabilities, there are also occasions when HCV policies need to be changed to ensure that people experiencing chronic homelessness can benefit from the program. Federal fair housing laws — especially the reasonable accommodation provisions of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 — both allow people with disabilities to ask for such changes and obligate public housing agencies (PHAs) to make them as long as the proposed changes are reasonable. By definition, people considered chronically homeless are disabled and are entitled to all the rights of these fair housing laws.

As you learn about all of the activities that make up the HCV program, it is important to remember that as a result of fair housing laws, PHAs are obligated to make reasonable changes in policies and procedures to ensure equal participation in the program by people with disabilities, including those experiencing chronic homelessness. These changes in policies or procedures are referred to as “reasonable accommodation.”

Reasonable Accommodation

People who are experiencing chronic homelessness sometimes have difficulty with the complex and bureaucratic requirements associated with the HCV program, and may need assistance in completing the application process, searching for housing, and submitting necessary paperwork. PHAs are required to provide this assistance under the provisions of Section 504 of the Rehabilitation Act of 1973. For example, a chronically homeless person whose disability makes it challenging to get to the PHA office from the shelter where they are staying might request that a PHA staff member visit them at the shelter and assist them in completing an HCV application.

Requesting a Reasonable Accommodation

Under Section 504, every chronically homeless household has the right to request a reasonable accommodation. Furthermore, PHAs are required to inform all HCV households of this right. This does not mean that the PHA must grant any accommodation requested. The PHA may decide that some requests are “unreasonable” or not disability-related, or it may suggest a different solution to the problem. Public housing agencies'

decisions about what is reasonable are sometimes based on previous HUD decisions regarding reasonable accommodation requests. Table 3.01 on [page 26](#) includes a list of common changes to HCV regulations and policies that may be requested as reasonable accommodations under Section 504. Examples of reasonable accommodation policies are also highlighted in callout boxes throughout this guidebook.

Public housing agencies must have a process in place to receive accommodation requests and to determine whether the requests are reasonable. This process must be described in the PHA's HCV Administrative Plan (see Chapter 11). Usually, such processes require requests to be submitted in writing to PHA staff.

QUICK TIP

A "REASONABLE ACCOMMODATION" REQUEST MUST RELATE TO A DISABILITY

Every Housing Choice Voucher applicant or participant with a disability is allowed to request a reasonable accommodation regarding a public housing agency's policies. Keep in mind that the request must be directly related to the person's disability. For example, a chronically homeless individual with a mobility impairment who needs an accessible unit may request an extension to the housing search time as a reasonable accommodation if they are having difficulty locating a unit with the appropriate features. In contrast, a search extension request from a chronically homeless individual who has been out of town and unable to look for housing would probably not be considered reasonable since it does not directly relate to their disability.

It is helpful to understand the HCV regulations in order to be able to ask for a specific accommodation. A reasonable accommodation request should clearly describe:

- The accommodation that is being requested;
- The reason that the accommodation is being requested; and
- How the accommodation is related to the person's disability (although the person does not have to disclose their specific disability unless it pertains to the request).

It is helpful to attach any written documentation or letters from advocates or providers who can support the request, especially from providers who are licensed to diagnose and treat the disability.

The PHA may simply respond in writing to the request — especially if it has granted requests for similar accommodations in the past. Or, the PHA may schedule a meeting so that the household can discuss the request and provide any supporting documentation.

Unfortunately, some PHAs are still unsure about some of their obligations under fair housing laws and may not understand their responsibilities with respect to reasonable accommodation. They also may not understand exactly how flexible they can be in granting a reasonable accommodation request.

You may need to educate the PHAs about these legal requirements. This guidebook and other written materials, including HUD regulations and notices, can help explain reasonable accommodation to PHA staff. HUD fair housing staff members (from the [local HUD field office](#)) are also valuable resources for learning more about fair housing laws and reasonable accommodation in the HCV program. These resources can be used to encourage PHAs to establish clear and helpful reasonable accommodation policies that promote good-faith negotiation and equal participation by people experiencing chronic homelessness. The Department of Housing and Urban Development and the Department of Justice issued a [joint statement on reasonable accommodation](#) under the Fair Housing Act that provides helpful examples of accommodations that may be determined reasonable if requested by a person with a disability.

Reasonable Modification

A special type of accommodation is a physical "modification" to an apartment or property. Under fair housing laws, reasonable modification policies allow people with disabilities to alter their rental housing unit to meet their unique needs. An owner participating in the HCV program must allow a person with a disability — at their own expense — to make physical modifications to a unit if these are necessary for them to fully use and enjoy the housing unit. Owners may require that the reasonable modifications be completed in a professional manner and be in compliance with all applicable building codes. In addition, owners may require the household to restore the unit to its original condition before vacating. Examples of modifications are installing an entrance ramp to the unit, or grab bars in the shower.

The owner does not have to allow the household to make modifications that the law deems unreasonable. An unreasonable modification would be one that is not related to the person's disability.

Whether or not a modification is reasonable must be evaluated on a case-by-case basis guided by previous HUD decisions and decisions made in federal court. However, fair housing laws make it illegal for owners to refuse to permit tenants with disabilities to make modifications to their unit as long as the tenant is willing to pay for the changes; the owner may also require the tenant to place funds in escrow that can be used to put the unit back into its original condition when the tenant moves out.

In the HCV program, owners are generally not required to pay for modifications. However, as a reasonable accommodation, a PHA could approve a higher rent for an owner who is making accessibility modifications to a unit to meet an HCV household's needs. By providing a higher rent, the PHA can help the owner pay for the cost of the modification.

GOOD TO KNOW

POSSIBLE SOURCES OF FUNDING FOR MODIFICATIONS

- [Medicaid 1915\(c\) Home and Community-Based Services Waiver](#). If the state has included home or environmental modifications as a waiver service, this service is available to persons enrolled in the waiver who need modifications to their living environment to move to or remain in the community. Exactly which modifications will be reimbursed depends on how the state has crafted the service definition.
- [Medicaid 1915\(i\) Home and Community-Based Service State Plan Option](#). Through 1915(i) options, states may offer the same types of services that were previously available only through a waiver. This may include home or environmental modifications.
- [Medicaid "Money Follows the Person" \(MFP\) Demonstration](#). The MFP demonstration program includes options for paying for accessibility modifications. These options are more flexible than under 1915(c) or 1915(i).
- [Consolidated Plan Funds](#). Funds controlled by a state or local housing agency's Consolidated Plan, specifically Community Development Block Grants and HOME Investment Partnership program funds, are potentially valuable resources for covering the cost of making accessibility modifications.
- [State Housing Finance Agency \(HFA\) Programs](#). In some states, HFAs may provide low-interest loans to make accessibility modifications.
- [Veterans Programs](#). The federal Department of Veterans Affairs has many programs that provide grants to veterans with disabilities who need to make modifications to their homes.
- [Vocational Rehabilitation Programs](#). Some state vocational rehabilitation departments provide accessibility modification assistance. These funds usually pay for the actual modifications rather than reimbursing the tenant.
- [State Assistive Technology Programs](#). The Assistive Technology Act supports programs in every state to provide resources for assistive technology to individuals with disabilities. These programs may provide devices, loans, and financing.

Your local [Center for Independent Living](#) is a good source of information regarding accessibility modifications, as is the [National Resource Center on Supportive Housing and Home Modifications](#).

Table 3.01 Common Requests for Reasonable Accommodation

Listed below are common examples of changes to Housing Choice Voucher (HCV) policies that public housing agencies (PHAs) have made as reasonable accommodations for people with disabilities, including people experiencing chronic homelessness. Some PHAs already have these policies as a general practice in their HCV program, but many do not. Each of these changes can be advocated on a case-by case basis for a chronically homeless person if needed based on their disability.

OUTREACH
<ul style="list-style-type: none">• Notifying homeless providers and other community agencies before opening the HCV waiting list and accepting applications.• Providing training on the HCV application process to homeless providers and other interested parties.
APPLICATIONS
<ul style="list-style-type: none">• Providing applications in Braille, large print, or other formats.• Allowing applications to be dropped off at the PHA by a friend, family member, advocate, or service provider.• Allowing additional time to submit an application.• Visiting a shelter, hotel/motel, or other temporary living site in order to allow an applicant to complete the application.• Allowing applications to be mailed/faxed or allowing a proxy to stand in line for an applicant.• Mailing out application forms in advance to provide people who are chronically homeless sufficient time to apply.• Accepting preliminary applications by telephone.• Using a simplified initial application and allowing applicants to complete a full application when they reach the top of the waiting list.• Allowing homeless and human service agencies to distribute copies of the application to the people with whom they work.• Offering assistance in completing the applications to applicants who may have difficulty writing or understanding what information is needed.• Making sure the application states that the PHA provides reasonable accommodations and explains the process to request one• Allowing a secondary contact person to be listed on the application and sending all PHA correspondence to both. (PIH Notice 2012-22)• Allowing applications that were discarded as incomplete to be completed and reinstated even if the list has been “closed.”• Allowing an application discarded during the waiting list update process to be reinstated to the list in its original position.

SCREENING AND VERIFICATION

- Making exceptions to screening criteria regarding criminal histories, past rental histories, or credit histories based on mitigating circumstances. (24 CFR 982.553(2)(ii)(C) and PIH Notice 2015-19)
- Providing extra time to gather documentation of eligibility.
- Accepting alternative forms of documentation for proof of age, identity, or social security number. (HUD Frequently Asked Questions)

ISSUANCE, HOUSING SEARCH, AND LEASE UP

- Allowing a friend, family member, service provider, or other person to attend the briefing session with the applicant.
- Holding the briefing in a location that is wheelchair accessible and includes an accessible bathroom.
- Sending the briefing letter to any secondary contacts listed.
- Allowing extensions to the housing search. (24 CFR 982.303(b)(2))
- Providing a list of accessible units. (24 CFR 982.301(b)(12))
- Providing a higher Utility Allowance. (24 CFR 982.517(e))
- Including a participant's live-in aide or overnight support staff when determining the unit size for the household. (24 CFR 982.316, 982.402(b)(6) or PIH Notice 2011-32)
- Providing a higher payment standard or asking HUD to approve a higher payment standard. (24 CFR 982.503(c)(2)(ii))
- Providing a higher payment standard to help cover the costs of accessibility modifications.
- Allowing HCV vouchers to be used in special housing types such as shared housing, group homes, single room occupancy buildings, and congregate housing. (24 CFR 982 Subpart M)
- Allowing voucher holders to rent from relatives. (24 CFR 982.306(d))
- Including proximity to community amenities and essential services in rent reasonableness determination.

MAINTAINING THE HCV VOUCHER

- Rescheduling missed recertification appointments.
- Rescheduling missed re-inspection appointments.
- Providing home visits to conduct recertifications.
- Allowing additional time for the annual recertification process.
- Requesting that portability requirements for non-residents be waived to ensure proximity to critical supports and services.
- Reinstating a voucher that was terminated for cause, due to mitigating circumstances.
- Reinstating a voucher that was terminated because of an extended absence from the unit due to a disability-related issue.