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## Chapter 14

### PROGRAM INTEGRITY

#### INTRODUCTION

The WMHA is committed to ensuring that subsidy funds made available to the WMHA are spent in accordance with HUD requirements.

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

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

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

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

###### WMHA Policy

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

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

The WMHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The WMHA will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

The WMHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key WMHA forms and form letters that request information from a family or owner.

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

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The HAP contract will be reviewed with first-time owners or their agents at the initial inspection.

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

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.

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

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

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

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the WMHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

##### WMHA Policy

In addition to the SEMAP quality control requirements, the WMHA will employ a variety of methods to detect errors and program abuse.

The WMHA routinely will use available sources of enterprise income verification (EIV) to compare with family-provided information.

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.

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

##### **Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of WMHA activities and notifies the WMHA of errors and potential cases of program abuse.

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WMHA Policy

The WMHA 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 the WMHA's error detection and abuse prevention efforts.

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

WMHA Policy

The WMHA will encourage staff, program participants, and the public to report possible program abuse.

**14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

**When the WMHA Will Investigate**

WMHA Policy

The WMHA 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 the WMHA 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.

The WMHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

**WMHA Investigation Procedures**

WMHA Policy

When the WMHA has determined that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the Executive Director or Deputy Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below.

- **EIV.** In all cases EIV will be updated and reviewed, including income validation tool reports
- **Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
- **Neighbors/Witnesses.** Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the WMHA's review.

- **Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.
- **Public Records.** If relevant, the WMHA may review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, Uniform Commercial Code financing statements, voter registration, judgments, court or police records, state wage records, utility records, and postal records.
- **Head of Household or Family Members.** The WMHA may discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the WMHA office. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language, on the part of either the family or the WMHA representative, be tolerated by the management. An additional staff person may be required to attend such interviews.

### **Consent to Release of Information [24 CFR 982.516]**

The WMHA may investigate possible instances of error or abuse using all available WMHA and public records. If necessary, the WMHA will require HCV families to give consent to the release of additional information.

### **Analysis and Findings**

#### WMHA Policy

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

### WMHA Policy

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

In the case of owner-caused errors or program abuse, the WMHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

## **Notice and Appeals**

### WMHA Policy

If evidence of program abuse is found, WMHA 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 the WMHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

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

### **14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS**

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the WMHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

### WMHA Policy

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

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## Reimbursement

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

### 14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy 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 the WMHA to use incorrect information provided by a third party.

#### Family Reimbursement to WMHA [HCV GB pp. 22-12 to 22-13]

##### WMHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The WMHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the WMHA will terminate the family's assistance in accordance with the policies in Chapter 12.

#### WMHA Reimbursement to Family [HCV GB p. 22-12]

##### WMHA Policy

The WMHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

### Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the WMHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

##### WMHA Policy

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

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Payment to the owner in excess of amounts authorized by the WMHA for rent, security deposit, and additional services

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

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

Receiving any benefit for which they are not eligible

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

- The WMHA will require the family to repay excess subsidy amounts paid by the WMHA, as described earlier in this section.
- The WMHA 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 12 (for participants).
- The WMHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The WMHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.
- The WMHA may sanction a family for a period of three to five years based on the severity of the program abuse.

### **14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

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An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

### **Owner Reimbursement to the WMHA**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the WMHA any excess subsidy received. The WMHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the WMHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

#### WMHA Policy

In cases where the owner has received excess subsidy, the WMHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

### **Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the WMHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

#### WMHA Policy

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

- Charging the family rent above or below the amount specified by the WMHA
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the WMHA Board of Commissioners, employees, contractors, or other WMHA representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the WMHA
- Residing in the unit with an assisted family



### **Remedies and Penalties**

When the WMHA determines that the owner has committed program abuse, the WMHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any WMHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

### **14-II.D. WMHA-CAUSED ERRORS OR PROGRAM ABUSE**

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

WMHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

### **Repayment to the WMHA**

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by WMHA staff [HCV GB. 22-12].

### **WMHA Reimbursement to Family or Owner**

The WMHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the WMHA's administrative fee reserves [HCV GB p. 22-12].

### **Prohibited Activities**

#### WMHA Policy

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

Failing to comply with any HCV program requirements for personal gain

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Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the WMHA

Disclosing confidential or proprietary information to outside parties

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

Misappropriating or misusing HCV funds

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

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

#### **14-II.E. CRIMINAL PROSECUTION**

##### WMHA Policy

When the WMHA determines that program abuse by an owner, family, or WMHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the WMHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance 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 HCV program will be referred to the appropriate local, state, or federal entity.

Disciplinary action in accordance with WMHA's policies and practices

#### **14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES**

The WMHA may retain a portion of program fraud losses that the WMHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The WMHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the WMHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the WMHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

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The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the WMHA related to the collection, these costs must be deducted from the amount retained by the WMHA.