

**§ 982.311**

**24 CFR Ch. IX (4-1-06 Edition)**

(iv) The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;

(v) The demand for assisted housing by families who will adhere to lease responsibilities;

(vi) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;

(vii) The effect of the owner's action on the integrity of the program.

(2) *Exclusion of culpable household member.* The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

(3) *Consideration of rehabilitation.* In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(4) *Nondiscrimination limitation.* The owner's termination of assistance actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title.

(Approved by the Office of Management and Budget under control number 2577-0169)

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**§ 982.311 When assistance is paid.**

(a) *Payments under HAP contract.* Housing assistance payments are paid to the owner in accordance with the terms of the HAP contract. Housing assistance payments may only be paid to

the owner during the lease term, and while the family is residing in the unit.

(b) *Termination of payment: When owner terminates the lease.* Housing assistance payments terminate when the lease is terminated by the owner in accordance with the lease. However, if the owner has commenced the process to evict the tenant, and if the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner in accordance with the HAP contract until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. The HA may continue such payments until the family moves from or is evicted from the unit.

(c) *Termination of payment: Other reasons for termination.* Housing assistance payments terminate if:

(1) The lease terminates;

(2) The HAP contract terminates; or

(3) The PHA terminates assistance for the family.

(d) *Family move-out.* (1) If the family moves out of the unit, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

(2) If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

**§ 982.312 Absence from unit.**

(a) The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason. At its discretion, the PHA may