Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

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

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

Part II: Corrective Measures and Penalties. This part describes the corrective measures the CCHA 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

HUD created the Enterprise Income Verification (EIV) system to provide CCHA with a powerful tool for preventing errors and program abuse. CCHA is required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. CCHA is further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

CCHA Policy

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

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

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

The CCHA will provide each applicant and participant with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The CCHA will provide each applicant and participant with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12.

The CCHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key CCHA forms and form letters that request information from a family or owner.

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

At every regular reexamination, CCHA staff will explain any changes in HUD regulations or CCHA Policy that affect program participants.

The CCHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The CCHA will provide each CCHA 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 CCHA 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 CCHA 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).

CCHA Policy

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

The CCHA routinely will use available sources of up-front income verification, including HUD's EIV system, 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 CCHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

2 CFR Part 200 requires all PHA's that expend $1,000,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of CCHA activities and notifies the CCHA of errors and potential cases of program abuse.

CCHA Policy

The CCHA 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 CCHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

CCHA Policy

The CCHA will encourage staff, program participants, and the public to report possible program abuse in written format.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the CCHA Will Investigate

CCHA Policy

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

Consent to Release of Information [24 CFR 982.516]

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

Analysis and Findings

CCHA Policy

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

CCHA Policy

In the case of family-caused errors or program abuse, the CCHA 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, (5) whether the family has a history of offenses similar in nature.

In the case of owner-caused errors or program abuse, the CCHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) whether the owner has a history of offenses similar in nature.

Notice and Appeals

CCHA Policy

The CCHA 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 CCHA 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 CCHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

CCHA 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.

Reimbursement

Whether the family or owner is required to reimburse the CCHA or the CCHA 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 CCHA to use incorrect information provided by a third party.

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

CCHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The CCHA 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 CCHA will terminate the family's assistance in accordance with the policies in Chapter 12.

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

CCHA Policy

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

Prohibited Actions

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

- Make a false statement to the CCHA [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)].

CCHA Policy

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

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

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

Non-disclosure of a family relationship which would prohibit the approval of tenancy

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

- The CCHA may require the family to repay excess subsidy amounts paid by the CCHA, as described earlier in this section.
- The CCHA 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 CCHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The CCHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

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.

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 CCHA

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

CCHA Policy

In cases where the owner has received excess subsidy, the CCHA 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 CCHA [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:

CCHA 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 CCHA

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 CCHA Board of Commissioners, employees, contractors, or other CCHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the CCHA

Residing in the unit with an assisted family

Non-disclosure of a family relationship which would prohibit the approval of tenancy

Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

Remedies and Penalties

When the CCHA determines that the owner has committed program abuse, the CCHA 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 CCHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. CCHA-CAUSED ERRORS OR PROGRAM ABUSE

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

CCHA-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.

De Minimis Errors [24 cfr 5.609(c)(4)]

CCHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the CCHA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

CCHA must take corrective action to credit or repay a family if the family was overcharged rent, including when CCHA makes de minimis errors in the income determination. Families will not be required to repay CCHA in instances where CCHA miscalculated income resulting in a family being undercharged for rent. CCHA must state in its policy how it will repay or credit a family the amount they were overcharged as a result of CCHA's de minimis error in income determination.

CCHA Policy

CCHA will directly reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or de minimis error.

Prohibited Activities

CCHA Policy

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

Failing to comply with any HCV program requirements for personal gain

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 CCHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of CCHA 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

CCHA Policy

When the CCHA determines that program abuse by an owner, family, or CCHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the CCHA 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.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

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

The CCHA 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 CCHA 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 CCHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

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 CCHA related to the collection, these costs must be deducted from the amount retained by the CCHA.