

# TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

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Chapter Authority: 2 CMC § 4433; Executive Order 94-3 § 407.

Chapter History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21\* Com. Reg. 16471 (Feb. 18, 1999).

\*Volume 21, number 2 pages, 16459-16571 are misnumbered as volume 20.

Commission Comment: 2 CMC § 4411 creates the Mariana Islands Housing Authority (MIHA) as a public corporation within the Commonwealth government, charged with meeting the need for decent, safe and sanitary housing for persons of low and moderate income in the Commonwealth. See 2 CMC §§ 4411-4457. 2 CMC § 4433 sets forth the powers of MIHA, including the general power to do any and all things necessary or convenient to effectuate the purposes of the act and to carry out any of the powers granted by the act. See 2 CMC § 4433(t).

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Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 407:

Section 407. Marianas Housing Authority.

(a) The Marianas Housing Authority is abolished and its functions transferred to a Division of Housing within the Commonwealth Development Authority, which shall have at its head a Director of Housing.

(b) Any bond or other indebtedness of the Mariana Island Housing Authority shall be assumed by the Commonwealth government, but only upon such terms and security as shall have been agreed to previously by the Authority. The full faith and credit of the Commonwealth shall to secure such bond or other indebtedness, except as may have been pledged prior to such assumption or as otherwise provided by law.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

The Northern Marianas Housing Corporation is a subsidiary corporation of the Commonwealth Development Authority and the successor to MIHA under Executive Order 94-3. See 2 CMC § 4482(d).

On November 15, 1996, NMHC published emergency and proposed “Regulations Regarding the Minimum Rent for NMHC Section 8 Housing Units.” See 18 Com. Reg. 14461 (Nov. 15, 1996). A notice of permanent adoption was never published.

Chapter 100-90 was originally promulgated as “revisions” to Chapter 100-80. The Notice of Proposed Regulations contained the following section:

Citation of Related and/or Affected Statutes, Rules and Regulations. The proposed revisions were formulated to restate, enhance, supplement and clarify the existing NMHC Administrative Plan for Rental Assistance Programs and will not repeal the entire plan located at Northern Mariana Islands Administrative Code (NMIAC), Title 100, Chapter 80.

Sections of Chapter 100-90 are clearly incompatible with the plan existing at this chapter. As the adopted regulations provided no guidance for the Commission regarding which sections were to be repealed, the Commission codified the regulations as new Chapter 90. To the extent that the regulations in this chapter conflict with Chapter 90, they are superseded.

### **Part 001 - General Provisions**

#### **§ 100-80-001 Preamble**

(a) The United States Department of Housing and Urban Development (HUD), operates a subsidized housing program known as the Section 8 program. In the Commonwealth of the Northern Mariana Islands (CNMI), this program is administrated by the Northern Marianas Housing Corporation (NMHC), a division of the Commonwealth Development Authority (CDA).

(b) Eligibility to participate in the Section 8 program is determined by family size and income, in accordance with federal statutes, regulation, and by NMHC’s rules and regulations.

(c) Under the Section 8 program, as administered by NMHC, families may reside in units owned by NMHC, or they may reside in privately-owned housing units.

(d) Privately-owned housing units participating in the programs are required to pass minimum housing quality standards (HQS) established by HUD or the local housing code, whichever is more stringent. Contract rentals must be comparable to rentals received for housing units of the same size and type in the same general neighborhood.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 2000 amendments deleted former subsection (a), added new subsections (a) through (c) and re-designated subsection (d).

The 2000 amendments readopted and republished the “Section 8 Rental Assistance Programs Administrative Plan” in its entirety. The Commission, therefore, cites the 2000 amendments in the history sections throughout this chapter.

### **§ 100-80-005 Local Objectives**

The rental assistance programs are designed to achieve two major objectives:

- (a) To provide decent, safe, and sanitary housing for low income families while maintaining their rent payment at an affordable level.
- (b) To provide an incentive to private property owners to rent to low income families by offering timely assistance payments.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The 2000 amendments amended the opening sentence and subsections (a) and (b).

### **§ 100-80-010 Purpose of the Plan**

- (a) The purpose of the Administrative Plan codified in this chapter is to establish policies for carrying out NMHC’s rental assistance programs in a manner consistent with funding source requirements and local objectives. The plan covers both admission and continued participation in these programs. Policies are the same for all programs unless otherwise noted.
- (b) NMHC is responsible for complying with all changes in program regulations pertaining to these programs. If such changes conflict with this plan, program regulations will have precedence. The original plan and any changes must be approved by the Board of Directors of NMHC and a copy provided to HUD.

Modified, 1 CMC § 3806(d), (f).

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History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 2000 amendments amended subsection (a).

### § 100-80-015 Fair Housing Policy

(a) It is the policy of NMHC to comply fully with all federal, Commonwealth, and local non-discrimination laws and with the rules and regulations governing fair housing and equal opportunity in housing and employment.

(b) NMHC shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability or sexual orientation.

(c) To further its commitment to full compliance with applicable civil rights laws, NMHC will provide federal/Commonwealth/local information to certificate and voucher holders regarding “discrimination” and any recourse available during the family briefing session, and applicable fair housing information and discrimination complaint forms will be made a part of the certificate and voucher holder’s briefing packet.

(d) No individual with disabilities shall be denied the benefits or be excluded from participation in this program.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 2000 amendments deleted former subsection (e).

The Commission inserted a comma after the word “Commonwealth” in subsection (a) pursuant to 1 CMC § 3806(g). In subsection (b), the Commission changed “martial” to “marital” to correct a manifest error. In subsection (c), the Commission changed “apart” to “a part” to correct a manifest error.

### § 100-80-020 Accommodations

NMHC’s policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing programs and related services.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The 2000 amendments deleted former subsection (b).

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### § 100-80-025 Owner Outreach

- (a) NMHC encourages owners of decent, safe, and sanitary housing units to lease to Section 8 families. NMHC maintains a list of interested landlords and units available for the Section 8 program and updates this list on a regular basis. When listings from owners are received, they will be compiled by NMHC staff by bedroom size.
- (b) NMHC staff initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.
- (c) Printed material is available to acquaint owners and managers with the opportunities available under the program.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c). The Commission inserted a comma after the word “safe” in subsection (a) pursuant to 1 CMC § 3806(g).

### § 100-80-030 Privacy Rights

- (a) Applicants and participants, including all adults in their households, are required to sign the HUD 9886 authorization for release of information. This document incorporates the Federal Privacy Act statement and describes the conditions under which HUD will release family information.
- (b) NMHC’s practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.
- (c) In accordance with HUD requirements, NMHC will furnish prospective owners with the family’s current address as shown in NMHC’s records and, if known to NMHC, the name and address of the landlord at the family’s current and prior address.
- (d) NMHC’s policy is to ensure objectivity and consistency in applying the following criteria to evaluate the eligibility of families who apply. Staff will carefully review all information provided by the family. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by NMHC pertaining to their eligibility.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

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Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 2000 amendments deleted former subsection (c) and the Commission re-designated the remaining subsections accordingly.

### **Part 100 - Eligibility for Admissions**

#### **§ 100-80-101 Eligibility Factors**

(a) To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by NMHC.

(b) The HUD eligibility criteria are:

(1) An applicant must be a "family"

(2) An applicant must be within the appropriate income limits

(3) An applicant must furnish Social Security numbers for household members 6 years or older

(4) An applicant must furnish evidence of citizenship/ eligible immigrant status.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

In subsection (b)(4), the Commission inserted the final period.

#### **§ 100-80-105 Family Composition**

(a) The applicant must qualify as a family.

(1) The definition of a family is two or more persons (with or without children) regularly living together, related by blood, marriage, adoption, guardianship, or operation of law; or two or more persons who are not so related, but regularly living together and can verify shared income or resources; or two or more persons who intend to share residency and whose income and resources are available to meet the family's needs.

(2) The term family also includes: elderly family, near elderly family, disabled family, displaced person, single person, the remaining member of a tenant family, a foster care arrangement, or a kinship care arrangement. Other persons including members temporarily absent (i.e. a child temporarily placed in a foster care or a student temporarily away at college), may be considered a part of the applicant family's household if they are living or will live regularly with the family.

(b) Split households prior to certificate/voucher issuance.

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and

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there is no court determination, NMHC will make the decision taking into consideration the following factors:

- (1) Which family member applied as head of household
- (2) Which family unit retains the children of any disabled or elderly members
- (3) Restrictions that were in place at the time the family applied
- (4) Role of domestic violence in the split
- (5) Recommendations of social service agencies or qualified professionals such as the Division of Youth Services (DYS), Division of Mental Health, KARIDAT.

(c) The family unit that retains the minor children will be given priority for remaining at its place on the waiting list.

(d) Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by NMHC.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (d). The Commission inserted a comma after the word “guardianship” in subsection (a) pursuant to 1 CMC § 3806(g).

The 2000 amendments amended subsection (b)(5).

### **§ 100-80-110 Income Limitation**

(a) To determine if the family is income-eligible, NMHC compares the annual income of the family as defined under program regulations to the applicable income limits for the family’s size.

(b) For admission to the program (initial lease-up), the family’s income must be within the applicable low income limit for the CNMI.

(c) Pursuant to HUD regulations, NMHC is required to target available Section 8 housing to extremely low income families. In order to meet this requirement, extremely low income families may be given a preference on the waiting list, so that NMHC may meet HUD requirements.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 2000 amendments added a new subsection (c) and amended subsections (a) and (b).



**§ 100-80-115 Social Security Numbers**

Families are required to provide verification of Social Security numbers for all family members age 6 years and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

**§ 100-80-120 Citizenship/Eligible Immigration Status**

(a) In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

(b) For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

**§ 100-80-125 Other Criteria for Admission**

(a) NMHC shall apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

(1) Certificate program family's total tenant payment, computed in accordance with HUD regulations, may not exceed the current fair market rent as set by HUD for the family's certificate size in the area.

(2) The family must not have violated any family obligation during previous participation in the Section 8 program in the previous thirty-six months.

(3) No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

(4) Family must have paid any outstanding debt owed NMHC by the applicant for any program that NMHC operates, and any balance must be paid in full before admission or demonstrate a satisfactory six-month payment on a repayment agreement.

(5) No member of the family may have been involved or participated in drug related or violent criminal activity.

(6) No family member may have been evicted from public housing for drug-related or violent criminal activity during the three year prior to receipt of the application by NMHC.

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(7) No family member may have engaged in or threatened abusive or violent behavior toward NMHC personnel.

(b) When NMHC denies assistance to an applicant with a disability, the applicant may request a review of the family obligation that was violated, if the violation was a result of the disability. An exception may be granted by NMHC if the family member who violated the family obligation is not a current member of the household on the application.

(c) NMHC will not be obligated to ferret out information concerning a family's criminal activities as part of the processing of an application for assistance. Initial screening will be limited to routine inquiries of the family and any other information provided to NMHC regarding the matter. The inquiries will be standardized and directed to all applicants by inclusion in the application form. If either as a result of the standardized inquiry or the receipt of a verifiable referral, there is indication that the family or any family member has participated in drug-related criminal activity or violent criminal activity, NMHC may conduct closer inquiry to determine whether the family should be denied admission.

(d) If the family indicates on application that they have been arrested within the prior five years for drug-related or violent criminal activity, NMHC shall obtain verification through police/court records.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d). For clarity, the Commission moved subsections (b), (c) and (d) to the end of this section.

The 2000 amendments amended subsections (a)(1) and (a)(7).

### **§ 100-80-130 Changes in Eligibility Prior to Effective Date of the Contract**

Changes that occur during the period between placement on the waiting list and issuance of a certificate or voucher may affect the family's eligibility or total tenant payment. For example, if a family goes over the income limit prior to lease up, the applicant will not be eligible for the program. They will be notified in writing of their ineligible status and of their right to an informal review.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### **§ 100-80-135 Ineligible Families**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status.

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History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### **Part 200 - Application for Admission**

#### **§ 100-80-201 How to Apply**

NMHC will accept and process applications in accordance with applicable federal regulations. Applications will be received and processed as follows:

- (a) Applications will be taken at NMHC's central office or its offices on Rota and Tinian, as the case may be, at which time all applicants will receive a written statement documenting receipt of the application by NMHC. Unless the waiting list is closed, an application must be accepted even if an informal discussion indicates the applicant or his/her family may not be eligible.
- (b) Before formal acceptance of the application, applicants will be expected to provide on the formal application forms all the information necessary for making eligibility determinations.
- (c) All adult members of the household age eighteen or older must be present to complete and sign the application and to provide photo identification. This provision can be waived only for good cause. (Good cause would include applicants that are disabled and require that application be completed by mail).
- (d) Each application will be placed on the waiting list by preference category and date and time of the application. This policy will not be subverted due to personal or political favors.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The 2000 amendments amended subsections (a) and (d). The Commission corrected the spelling of the word "due" in subsection (d) pursuant to 1 CMC § 3806(g).

#### **§ 100-80-205 Applications**

- (a) The purpose of the application is to permit NMHC to assess family eligibility or ineligibility and to determine placement on the waiting list. The application will contain questions designed to obtain the following information:
  - (1) Names and date of birth of all members
  - (2) Sex and relationship of all members
  - (3) Street address and phone numbers
  - (4) Mailing address (if P.O. box or other permanent address)
  - (5) Amount(s) and source(s) of income received by household members
  - (6) Information related to qualification for preference
  - (7) Social Security numbers

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- (8) Race/ethnicity
- (9) Citizenship/eligible immigration status
- (10) Arrests for drug-related or violent criminal activity
- (11) Request for specific accommodation needed to fully utilize program and services.

(b) The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

(c) Applicants are required to inform the NMHC within thirty days of changes in family composition, income, and address, as well as any changes in preference status. Applicants are also required to respond to requests from NMHC to update information or to determine continued interest in assistance. If a family fails to respond to a request from NMHC to update information, then NMHC may, after sending a second request by certified mail, then the application will be rejected. No application will be rejected, until the thirty-first day after their receipt of the second request, or if the second request is returned to NMHC by the Post Office, the thirty-first day after mailing by NMHC.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 2000 amendments amended subsections (a)(1) and (c).

In subsection (a)(11), the Commission inserted the final period.

### **§ 100-80-210 Opening the Waiting List**

- (a) NMHC will utilize the following procedures for opening the waiting list.
- (b) When NMHC opens the waiting list, NMHC will advertise through public notice in the Marianas Variety and Saipan Tribune. Notice will also be posted at each island's Mayor's Office.
- (c) The notice will contain the dates, times, and locations where families may apply; the programs for which applications will be taken; a brief description of the program; and limitations, if any, on who may apply (special categories of applicants).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c). The Commission inserted a comma after the word "times" in subsection (c) pursuant to 1 CMC § 3806(g).

The 2000 amendments amended subsection (c).

**§ 100-80-215 When Application Taking Is Suspended**

(a) Decisions to close the waiting list will be based on the number of applications available for particular sizes of units, the numbers of applicants who qualify for local preferences, and the ability of NMHC to house an applicant in an appropriate unit within a reasonable period of time. A decision to close the waiting lists, restricting intake, or opening the waiting lists will be announced by public notice.

(b) During the period when the waiting list is closed, NMHC will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

**§ 100-80-220 Requirement to Attend Briefing**

(a) NMHC utilizes the full application briefing to discuss the family's circumstances in greater detail, to clarify information provided by the family, and provide information about the Section 8 program. All adult members are required to attend the briefing.

(b) It is the applicant's responsibility to reschedule the interview if she/he misses the briefing. If the applicant does not reschedule or misses two scheduled briefings, NMHC will reject the application.

(c) Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to provide some information but only with permission of the person with a disability.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

**§ 100-80-225 Verification of Information**

(a) Information provided by the applicant will be verified including information related to family composition, income, allowances and deductions, assets, eligible immigration status, full time student status and other factor related to preferences, eligibility and rent calculation. Verifications may not be more than sixty days old at the time of certificate/voucher issuance.

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(b) In order to verify information provided by a family, each adult member must sign a HUD approved consent for the release of information, so that NMHC may verify income and source of income information provided by the family.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 2000 amendments added a new subsection (b).

### **Part 300 - Establishing Preferences**

#### **§ 100-80-301 Guidelines**

The Section 8 waiting list will be maintained in accordance with the following guidelines:

- (a) The application will be a permanent file.
- (b) All applicants on the list will be maintained in order of preference. Applications equal in preference will be maintained by date and time.
- (c) All applicants must meet “very-low income” eligibility requirements as established by HUD. Any exceptions to these requirements must have been approved by the HUD field office.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

This section was originally an introduction to part III, codified at part 300. See 22 Com. Reg. at 17432 (Sept. 20, 2000); 21 Com. Reg. at 16490 (Feb. 18, 1999). The Commission created the section title.

In subsection (a), the Commission inserted the final period.

#### **§ 100-80-305 The Preference System**

An applicant will not be granted any preference (federal, ranking or local) if any member of the family has been evicted from any federally assisted housing during the past three years because of drug-related criminal activity.

- (a) NMHC reserves the right to choose whether to use preference in accordance with applicable federal law. NMHC will provide every applicant with information regarding preferences adopted by the Board of Directors.

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(b) A preference does not guarantee admission. Preferences are used to establish the order of placement on the waiting list. Every applicant must meet eligibility factors before being offered a certificate/voucher.

(c) Preferences will be granted to applicants who are otherwise qualified and who, at the time they are certified for admission meet the definitions of the preferences described below.

(d) Preference system - The following system will be applied in the selection of applicants from the waiting list:

At this time, NMHC has not adopted any local preferences. Further, NMHC is no longer utilizing the “federal” preferences. All applications will be on a first come first served basis. However, as noted above, NMHC is required to target extremely low income families and must generally target seventy-five percent of its new admissions to extremely low income families. Therefore, these families will be given “preference” to the extent needed for NMHC to comply with HUD mandates.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The 2000 amendments amended subsection (d). The 2000 amendments also deleted the remainder of part III, codified at part 300. See 21 Com. Reg. at 16491-94 (Feb. 18, 1999).

### **Part 400 - Occupancy Standards**

#### **§ 100-80-401 Determining Certificate/Voucher Size**

(a) NMHC does not determine who shares a bedroom/sleeping room. NMHC’s occupancy standards for determining certificate/voucher size shall be applied in a manner consistent with fair housing guidelines.

(b) All standards in this section relate to the number of bedrooms stated on the certificate or voucher, not the family’s actual living arrangements.

(c) The unit size on the certificate or voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

(d) NMHC assigns one bedroom to two people within the following guidelines:

(1) Persons of different generations, adults of the opposite sex (other than spouses or co-heads), children over 3 years of age and unrelated adults should be allocated a separate bedroom.

(2) Live-in aides will be provided a separate bedroom.

(3) Single person families shall be allocated an efficiency or one bedroom unit.

(e) Guidelines for determining certificate/voucher size:

Certificate/Voucher Size	Persons in Household
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	Minimum #	Maximum #
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10
6 Bedrooms	8	12

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

The 2000 amendments amended subsection (d)(1).

The Commission deleted former subsection (d) because it duplicated subsection (c).

### **§ 100-80-405 Changes in Unit Size**

NMHC shall grant exceptions from the standards if the family requests and the NMHC determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

## **Part 500 - Total Tenant Payment (TTP) Determinations**

### **§ 100-80-501 Income and Allowances**

(a) **Income:** Income from all sources of each member eighteen years and older of the household is counted.

(b) **Annual income:** Defined as the gross amount of income anticipated to be received by the family during the twelve months after certification or re-certification. Gross income is the amount of income prior to any HUD allowable expenses or deductions. Annual income is used to determine whether or not applicants are within the applicable income limits.

(c) **Adjusted income:** Defined as the annual income minus any HUD allowable deductions.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).



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Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

### **§ 100-80-505 Definition of Temporarily Absent**

(a) NMHC must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. If a family member is gone from the household for a time period of less than six months, the family member will be considered temporarily absent.

(b) Income of persons permanently absent will not be counted. If a family member leaves the household for a period of six months or more or the family declares them absent in writing, the family member will be considered permanently absent and removed from the lease.

(c) It is the responsibility of the head of household to report changes in family composition. NMHC will evaluate absences from the unit using this policy.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

### **§ 100-80-510 Income of Person Permanently Confined to a Nursing Home**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the income of the family member confined will be excluded and the remaining family member will not receive disabled/handicap or medical expense deductions for the absent family member.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### **§ 100-80-515 Averaging Income**

(a) When annual income cannot be anticipated for a full twelve months, NMHC may average known sources of income that vary to calculate an annual income or annualize current income and conduct an interim reexamination if income changes.

(b) An estimate can be made by averaging for those families whose income fluctuates from month to month, this estimate will be used so that the housing assistance payment does not change from month to month.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

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Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### § 100-80-520 Minimum Income

There is no minimum requirement. Families who report zero income are required to complete a written certification each thirty days.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### § 100-80-525 Regular Gifts and Contributions

Any contribution or gift received every month or periodically on a regular basis will be considered a “regular” contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions. It does not include casual contributions or sporadic gifts.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### § 100-80-530 Alimony and Child Support

- (a) Regular alimony and child support payments are combined as income.
- (b) If the amount of child support or alimony received is less than the amount awarded by the court, NMHC must use the amount awarded by the court unless the family can verify they are not receiving the full amount. Accepted verification includes verification from the agency responsible for enforcement collection or has a filed an enforcement or collection action through an attorney.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### § 100-80-535 Lump-sum Receipts

- (a) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker’s compensation), capital gains, and settlement for personal or property losses, are not included in income.
- (b) Lump-sum payments caused by delays in processing periodic payments (unemployment, AFDC, social security benefits) are not counted as income. Deferred periodic payments will be treated the same as periodic payments which are deferred due to delays in processing.

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Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### **§ 100-80-540 Assets Disposed of for Less than Fair Market Value**

(a) NMHC will count assets disposed of for less than fair market value during the two years preceding certification or reexamination. NMHC will count the difference between the market value and the actual payment received.

(b) Assets disposed of as a result of foreclosure, bankruptcy, divorce, or separation are not considered assets disposed of for less than fair market value.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The Commission inserted a comma after the word “divorce” in subsection (b) pursuant to 1 CMC § 3806(g).

### **§ 100-80-545 Child Care Expenses**

(a) Child care expenses for children under age thirteen may be deducted from annual income if they enable an adult to work or attend school full time.

(b) Child care expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the child care. Examples of those adult members who would be considered unable to care for the child include a person with disabilities or older person.

(c) Allowability of deductions for child care expenses is based on the following situations:

(1) Child care to work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work.

(2) Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school.

(3) Rate of expense: NMHC will survey the local care providers in the community as a guideline. The weekly expense for child care will not exceed comparable local practice.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

**§ 100-80-550 Medical Expenses**

- (a) Non-prescription medicines must be recommended by a medical physician in order to be considered a medical expense.
- (b) Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses if verified by a medical physician.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

**§ 100-80-555 Stipend of Resident/Tenant Member of NMHC Board of Directors or Resident Advisory Board**

Any monies received by a tenant for serving on NMHC's Board of Directors or on the NMHC Resident Advisory Board, shall not be considered as part of tenant's income.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000).

Commission Comment: The Commission deleted the repeated word "be" to correct a manifest error.

**Part 600 - Verification Procedures**

**§ 100-80-601 Methods of Verification and Time Allowed**

- (a) NMHC will verify information through four methods of verification acceptable to HUD in the following order:
  - (1) Third-party written verification;
  - (2) Third-party oral with written follow-up;
  - (3) Review of documents; or
  - (4) Applicant certification.
- (b) NMHC will allow two weeks for return of third-party verifications and two weeks to obtain other types of verifications before using the next method.
- (c) For applicants, verifications may not be more than sixty days old at the time of certificate/voucher issuance. For participants, they are valid for ninety days from date of receipt.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

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Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

### **Part 700 - Certification/Voucher Issuance and Briefings**

#### **§ 100-80-701 Issuance of Certificates/Vouchers**

When funding is available, NMHC will issue certificates and vouchers to applicants whose eligibility has been determined. The issuance of certificates and vouchers must be within the dollar limitations set by the ACC budget.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

#### **§ 100-80-705 Briefing Types and Required Attendance**

(a) Initial Applicant Briefing

(1) A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in group meetings.

(2) The purpose of the briefing is to explain the documents in the certificate/voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

(3) NMHC will not issue a certificate or voucher to a family unless the head of household has attended a briefing and signed the certificate or voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two scheduled briefings, without a valid reason may be denied assistance.

(b) Briefing Packet

(1) The documents and information provided in the briefing packets for both the certificate and voucher programs will comply with all HUD requirements. NMHC also includes other information and/or materials which are not required by HUD.

(2) The family is provided with the following information:

(i) The term of the certificate or voucher.

(ii) A description of the method used to calculate the assistance payment, information on fair market rents (certificate program), payments standards (voucher program), and utility allowances.

(iii) The HUD lease addendum and NMHC sample lease.

(iv) The request for lease approval form and a description of the procedure for requesting approval for a unit.

(v) The subsidy standards and how the certificate or voucher size relates to the unit size selected.

(vi) The HUD brochure on lead-based paint hazards.

(vii) Information on federal, Commonwealth, and local equal opportunity laws including the pamphlet "Fair Housing, It's Your Right"; the form for reporting suspected discrimination.

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- (viii) A list of landlords or other parties willing to lease to assisted families or help in the search.
- (ix) If the family includes a person with disabilities, NMHC will provide a list of available accessible units.
- (x) The family obligations under the program.
- (xi) The grounds for termination of assistance because of family action or failure to act.
- (xii) When NMHC is required to offer an informal hearing, how to request the hearing, and the hearing procedures.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The Commission inserted a comma after the word “Commonwealth” in subsection (b)(2)(vii) pursuant to 1 CMC § 3806(g).

### § 100-80-710 Security Deposit Requirements

Security deposits charged by owners shall not exceed one month’s rent.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### § 100-80-715 Term of Certificate/Voucher

During the briefing sessions, each household will be issued a certificate or voucher which represents a contractual agreement between NMHC and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

#### (a) Expirations

(1) The certificate or voucher is valid for a period of sixty calendar days from the date of issuance. The family must submit a request for lease approval and lease within the sixty day period.

(2) If the certificate or voucher has expired, and has not been extended by NMHC or expires after an extension, the family will be denied assistance. They family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

#### (b) Extensions

(1) Extensions are allowed at the discretion of NMHC up to a maximum of one hundred twenty days, generally for the following reasons:

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- (i) Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty day period. Verification is required.
  - (ii) NMHC is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of NMHC, throughout the initial sixty day period.
  - (iii) The family was prevented from finding a unit due to disability accessibility requirements or large bedroom size unit requirement.
- (2) Extensions are granted in increments of thirty days. All extensions must be approved by the Section 8 specialist. A maximum of two thirty day extensions are allowed.
- (c) Assistance to Certificate/Voucher Holders
- (1) Families who require additional assistance during their search may call NMHC's Section 8 office to request assistance. Certificate and voucher holders will be notified at their briefing session that NMHC periodically updates the listing of available units and how the updated list may be obtained.
  - (2) NMHC will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

### **§ 100-80-720 Interchangeability Between Certificate and Voucher**

If the family asks to change the form of assistance, NMHC will determine if the requested form of assistance is available and will notify the family within ten days. If NMHC denies the family's request, an informal hearing will not be offered.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

## **Part 800 - Request for Lease Approval and Contract Execution**

### **§ 100-80-801 Request for Lease Approval**

- (a) The request for lease approval (RFLA) and a copy of the proposed lease must be submitted by the family during the term of the certificate of voucher.
- (b) The request for lease approval must be signed by both the owner and certificate/voucher holder. The lease may be executed up to sixty days prior to contract execution but cannot be executed without approval of NMHC.

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- (c) NMHC will not permit the family to submit more than one RFLA at a time.
- (d) NMHC will review the documents to determine whether or not they are approvable. For the certificate program, NMHC will determine that the gross rent is within the applicable FMR (unless an exception rent is approved).
- (e) The request for lease approval will be approved if:
  - (1) The unit is an eligible type of housing;
  - (2) The unit meets HUD's housing quality standards (and any additional local criteria as identified in the Administrative Plan, codified in this chapter);
  - (3) The contract rent is reasonable. Rent and utility allowance do not exceed current FMR unless an exception is approved;
  - (4) The security deposit amount is approvable; and
  - (5) The proposed lease complies with HUD and NMHC requirements and Commonwealth/local law.
- (f) Disapproval of RFLA
  - (1) If NMHC determines that the request for lease approval cannot be approved for any reason, the landlord and the family will be notified. NMHC will instruct the owner and family of the steps that are necessary to approve the request.
  - (2) The owner will be given ten calendar days to submit an approvable RFLA from the date of disapproval.
  - (3) When, for any reason, an RFLA is not approved, NMHC will furnish another RFLA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (f).

### **§ 100-80-805 Eligible Types of Housing**

- (a) NMHC will approve any of the following types of housing in the certificate and voucher programs:
  - (1) All structure types can be utilized.
  - (2) Manufactured homes where the tenant leases the mobile home and the pad.
  - (3) Manufactured homes where the tenant owns the mobile home and leases the pad (certificate program).
  - (4) Independent group residences.
- (b) A family can own a rental unit but cannot reside in it while being assisted, except in the certificate program for manufactured homes when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development. Families may lease properties owned by relatives, as long as those owners and units meet the



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other programs requirements. Owners should be aware that Congress is considering action to disqualify housing owned by relatives as eligible housing.

(c) NMHC may not permit a certificate or voucher holder to lease a unit which is receiving project-based Section 8 assistance or any duplicative rental subsidies.

(d) NMHC will not approve:

(1) A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes described above;

(2) Nursing homes or other institutions that provide care;

(3) School dormitories and institutional housing; or

(4) Any other types of housing prohibited by HUD.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 2000 amendments amended subsection (c).

### § 100-80-810 Rent Limitations

(a) In the certificate program, NMHC may approve exception rents that are up to ten percent above the FMR for no more than twenty percent of budgeted units.

(b) Rent reasonableness will still be used as a measure of whether the rent is approvable.

(c) NMHC manually tracks all units for which an exception rent is approved to assure that not more than twenty percent of the units under the certificate program (based on the number of units shown on line 4 of the last budget submitted to HUD) are approved.

(d) For certificate and voucher programs, NMHC will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable assisted or unassisted unit in the building or premises.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

### § 100-80-815 Disapproval of Proposed Rent

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(a) In the certificate program, if the gross rent proposed exceeds the FMR, NMHC may suggest that the owner reduce the contract rent or include some or all utilities in contract rent.

(b) If the owner accepts the offer of a reduced rent, NMHC will continue processing the request for lease approval and lease. If the revised rent involves a change in the provision of utilities, a new request for lease approval must be submitted by the owner.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### § 100-80-820 Information to Owners

(a) NMHC is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous landlord if known.

(b) NMHC will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rental payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### § 100-80-825 Owner Disapproval

(a) For purposes of this section, "owner" includes a principal or other interested party.

(b) NMHC will disapprove the owner for the following reasons:

(1) HUD has informed NMHC that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24;

(2) HUD has informed NMHC that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending;

(3) HUD has informed NMHC that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements;

(4) The owner has violated obligations under a housing assistance payment contract under Section 8 of the 1937 Act;

(5) The owner has committed fraud, bribery, or any other corrupt act in connection with any federal housing program;

(6) The owner has engaged in drug trafficking;

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- (7) The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards of units leased with project-based Section 8 assistance or leased under any other federal housing program;
  - (8) The owner has a history or practice of renting units that fail to meet Commonwealth or local housing codes; or
  - (9) The owner has not paid Commonwealth or local real estate taxes, fines or assessments.
- (c) Information for W-9 Forms
- (1) Owners must provide the current address of their personal residence. If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.
  - (2) Owners must provide an employer identification number or Social Security number. Owners must also submit proof of ownership of the property, such as a deed. A certificate of compliance and a copy of the management agreement is required if the property is managed by a management agent.
  - (3) The owner must provide a business or home telephone.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c). The Commission inserted a comma after the word "bribery" in subsection (b)(5) pursuant to 1 CMC § 3806(g).

### **§ 100-80-830 Change in Ownership**

- (a) A change in ownership requires execution of a new contract.
- (b) NMHC will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and the employee identification number or Social Security number of the new owner.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

## **Part 900 - Housing Quality Standards and Inspections**

### **§ 100-80-901 Housing Quality Standards and Inspections**

- (a) Housing quality standards (HQS) are the HUD minimum quality standards for housing units participating in tenant-based rental assistance programs. HQS is designed to ensure that the

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unit is decent, safe, and sanitary. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit.

(b) All units must adhere to the acceptability and performance criteria in program regulations and the HUD Inspection Booklet (24 CFR § 982.401).

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The Commission inserted a comma after the word “safe” in subsection (a) pursuant to 1 CMC § 3806(g).

### **Part 1000 - Owner Rents, Rent Reasonableness and Payment Standards**

#### **§ 100-80-1001 Making Payments to Owners**

(a) Once the HAP contract is executed, NMHC begins processing payments to the landlord. A HAP register will be used as a basis for monitoring the accuracy and time lines of payments. Changes are made automatically to the HAP register for the following month.

(b) Checks may not be picked up by the owner at NMHC.

(c) Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

#### **§ 100-80-1005 Rent Reasonableness Determinations**

(a) Rent reasonableness determinations are made when units are placed under HAP contract for the first time, when owners request annual or special contract rent adjustments under the certificate program, and when an owner requests a rent increase in the voucher program.

(b) For the certificate and voucher program, NMHC will determine and document on a case-by-case basis that the approved rent:

(1) Does not exceed rents currently charged by the same owner for an equivalent assisted or unassisted unit in the same building or complex, and

(2) Is reasonable in relation to rents currently charged by other owners for comparable units in the unassisted market.

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- (c) At least two comparable units will be used for each rent determination, one of which must be from the first category above if possible. All comparables must be based on the rent that the unit would command if leased in the current market.
- (d) The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.
- (e) The following items will be used for rent reasonableness documentation:
  - (1) Square footage
  - (2) Number of bedrooms
  - (3) Facilities
  - (4) Location
  - (5) Number of bathrooms
  - (6) Quality
  - (7) Amenities
  - (8) Date built
  - (9) Unit type
  - (10) Management and maintenance services
  - (11) Building material.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

In subsection (e)(11), the Commission inserted the final period.

### **§ 100-80-1010 Payment Standards for the Voucher Program**

The payment standard is initially set by NMHC at the fair market rent in effect at the time the annual contributions contract for the first increment of voucher funding is approved by HUD. The payment standard is used to determine the maximum subsidy which can be paid by NMHC on behalf of the family.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### **§ 100-80-1015 Adjustments to Payment Standards**

(a) Payment standards may be adjusted to increase housing assistance payments in order to keep a family's rents affordable. NMHC will not raise the payment standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will NMHC raise standards if the need is solely to make "high end" units available to voucher holders.

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(b) NMHC will review the payment standard annually to determine whether an adjustment should be made for some or all unit sizes. The payment standard will be reviewed according to HUD's requirements and if an increase is warranted, the payment standard will be adjusted within 80% of the current fair market rent.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### **§ 100-80-1020 Rent Adjustments**

#### (a) Certificate Program

(1) Rent adjustments to owners under the certificate program are allowed and are effective on the anniversary date of the HAP contract (unless the unit is in a failed condition at that time) one time per year or the first of the next month subsequent to the owner's request. Owners must request the rent adjustment in writing on the form provided by NMHC. If the request is not received within 60 days of the anniversary date, NMHC will not approve an annual adjustment for that year. The change in rent does not affect the automatic renewal of the lease and does not require a new lease or contract. NMHC will execute a contact lease amendment that is attached to the current lease. A notice of rent change will be sent to the owner and the family.

(2) Rent increases must pass the rent reasonableness test and may not exceed the adjustment factor published annually by HUD (even if justified by rent reasonableness).

#### (b) Disapproval of Requests for Adjustment

If NMHC rejects the owner's request for rent adjustment as exceeding rent reasonableness and the owner rejects NMHC's determination, the owner may offer the tenant a new lease (after receiving NMHC's approval with a sixty-day notice to the tenant). If the tenant refuses or the owner does not offer a new lease, the owner may terminate tenancy for a business or economic reason in accordance with the lease after giving 60 days notice to NMHC and the family as required by program regulations. NMHC will then issue a new certificate to the family.

#### (c) Voucher Program

Owners may not request rent adjustments in the voucher program that are effective prior to the expiration of the first year of the lease. Rent adjustments are effective the first of the month subsequent to the approval of increase.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

**Part 1100 - Re-certifications**

**§ 100-80-1101 Annual Activities**

- (a) There are three activities NMHC must conduct on an annual basis. These activities will be coordinated whenever possible:
- (1) Re-certification of income and family composition
  - (2) HQS inspection
  - (3) Contract rent adjustment when requested by owner (certificate only).
- (b) NMHC produces a monthly listing of units under contract to ensure that timely reviews of contract rent, housing quality, and factors related to total tenant payment can be made.
- (c) Annual activities for contracts that did not commence on the first of the month must be completed no later than the first of the month in which the lease was effective.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

In subsection (a)(3), the Commission inserted the final period.

**§ 100-80-1105 Annual Re-certification**

Families are required to be re-certified at least annually for continued eligibility and rent determination.

- (a) **Re-certification Notice to the Family**  
NMHC will maintain a re-certification tracking system and the household will be notified by mail of the date and time for their interview at least 90 days in advance of the anniversary date.
- (b) **Requirements to Attend**  
All adult household members will be required to attend the re-certification interview. If the head of the household is unable to attend the interview, the appointment will be rescheduled.
- (c) **Failure to Respond to Notification to Re-certify**
- (1) If the family does not appear for the re-certification interview, and has not rescheduled or made prior arrangements with NMHC, NMHC will reschedule a second appointment.
  - (2) If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the Section 8 specialist will schedule a mandatory meeting. Failure to attend this mandatory meeting will result in termination.
  - (3) Exceptions to these policies may be made by the Section 8 specialist if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or for other valid mitigating circumstance.

(d) Tenant Rent Changes

Any tenant rent changes will be effective on the anniversary date or on the first day of the month following a thirty day notice if there is an increase in rent.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d) and removed the parentheses around subsection (c)(3) pursuant to 1 CMC § 3806(a).

**§ 100-80-1110 Reporting Interim Changes**

NMHC requires program participants to report all changes in household composition to NMHC between annual re-certifications. This includes additions due to birth, adoption, and court-awarded custody. The family must obtain NMHC approval prior to all other additions to the household.

(a) Interim Re-certification Policy

(1) NMHC will conduct interim re-certifications when families have an increase in income or change in family size.

(2) Families are required to report all increases and decreases in income/assets of all the household members or increases/decreases in family size to NMHC within 10 days of the change. If a family fails to report a change in income/assets, then NMHC may conduct an interim re-certification upon obtaining evidence of said change in income/assets/family size. If the re-certification results in an increase in rent, then said increase shall be charged retroactively to the date of income/asset/family size change. Failure to report a change in income/asset/family size may provide grounds to terminate assistance.

(b) HA Errors

If NMHC makes a calculation error at admission to the program or at an annual re-examination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

(c) Duty of Family to Disclose Receipt of Notification from HUD Concerning Family Income

(1) If any member of a family receives notification from HUD as to their income, whether said notice pertains to the amount, source, or other aspect of their income, then the family must notify NMHC of their receipt of the HUD notification within ten days of their receipt of said notification. Failure by the family to notify NMHC of said notification is grounds for termination of assistance.

(2) Upon NMHC receiving notice of a family's receipt of a HUD notification, NMHC shall conduct an interim re-certification of the family.

(d) Other Interim Reporting Issues

(1) An interim re-certification does not affect the date of the annual re-certification.



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(2) An interim re-certification will be scheduled for families at zero income each 30 days. Zero income families are required to complete a family expense form.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 2000 amendments added a new subsection (c), re-designated subsection (d), and amended subsections (a)(1) and (a)(2). The Commission inserted a comma after the word “adoption” in the initial paragraph pursuant to 1 CMC § 3806(g).

### **§ 100-80-1115 Notification of Results of Re-certifications**

(a) The HUD form 50058 will be completed and transmitted as required by HUD.

(b) The notice of tenant rent change is mailed to the owner and the tenant following a re-certification even if rent and lease remain the same. Signatures are not required by NMHC. If the family disagrees with the rent adjustment, the family must notify their caseworker to resolve the disagreement.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### **§ 100-80-1120 Continuance of Assistance for “Mixed Families”**

(a) Under the non-citizens rule, “mixed” families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

(b) “Mixed” families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

(1) The head of household or spouse is a U.S. citizen or has eligible immigrant status; and

(2) All members of the family other than the head of household, the spouse, parents of the head of household, parents of the spouse, and children of the head of household or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

(c) If they do not qualify for continued assistance, the member(s) that causes the family to be ineligible for continued assistance may move, the family may choose prorated assistance or NMHC may offer temporary deferral of termination.

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 2000 amendments amended subsections (b)(2) and (c).

### **Part 1200 - Moves with Continued Assistance/ Portability**

#### **§ 100-80-1201 Allowable Moves**

A family may move to a new unit if:

- (a) The assisted lease for the old unit has terminated because NMHC has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- (b) The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
- (c) The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

#### **§ 100-80-1205 Restrictions on Moves**

- (a) Families will not be permitted to move within NMHC's jurisdiction during the initial year of assisted occupancy.
- (b) Families will not be permitted to move outside NMHC's jurisdiction under portability procedures during the initial year of assisted occupancy.
- (c) Families will be permitted to move only once in a 12-month period (after the first year of tenancy).
- (d) NMHC will deny permission to move if there is insufficient funding for continued assistance. NMHC may deny permission to move to if:
  - (1) The family has violated a family obligation.
  - (2) The family owes NMHC money and/or the owner money.
  - (3) The family has moved or been issued a certificate or voucher twice within the last twelve months.

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(e) The Section 8 specialist may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control or for mitigating circumstances beyond the control of the family.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

### **§ 100-80-1210 Procedure for Moves**

(a) Notice Requirements

(1) Briefing sessions emphasize the family's responsibility to give the owner and NMHC proper written notice of any intent to move.

(2) The family must give the owner at least thirty days (not to exceed sixty days) written notice of intent to vacate as specified in the lease and must give a copy to NMHC simultaneously.

(3) For units under a certificate contract effective before October 2, 1995, if the family vacates the unit without proper notice in writing to the owner, the family will be responsible for any vacancy loss paid by NMHC.

(b) Time of Contract Change

(1) A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move with no overlapping assistance.

(2) In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves in certain circumstances as approved by the Section 8 specialist.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 2000 amendments amended subsection (a)(1).

### **§ 100-80-1215 Portability**

Portability applies to families moving out of or into NMHC's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the initial HA's jurisdiction. The unit may be located:

(a) In the same state as the initial HA;

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- (b) In the same metropolitan statistical area (MSA) as the initial HA, but in a different state;
- (c) In an MSA adjacent to the MSA of the initial HA, but in a different state; and
- (d) In the jurisdiction of an HA anywhere within the United States that administers a tenant based program.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The 2000 amendments amended the opening paragraph.

### **§ 100-80-1220           Outgoing Portability**

- (a) When a family requests to move outside of NMHC's jurisdiction, the request must specify the area to which the family wants to move.
- (b) If the family is moving to a unit located in the same state as the initial HA, in the same MSA, but in a different state, or in an adjacent MSA in a different state, and there is not an HA in the area where the unit is located, the initial HA will be responsible for the administration of the family's assistance.
- (c) If there is more than one HA in the area in which the family has selected a unit, the HA will choose the receiving HA.
- (d) **Restrictions on Portability**
  - (1) Families will not be permitted to exercise portability during the initial twelve month period after admission to the program, if neither the head of household or spouse had a domicile (legal residence) in the CNMI at the date of their initial application for assistance.
  - (2) If the family is in violation of a family obligation.
  - (3) If the family owes money to NMHC.
- (e) **Outgoing Portability Procedures**
  - (1) NMHC will provide pre-portability counseling for those families who express an interest in portability. If the family is utilizing portability for their initial lease-up, NMHC will determine if the family is within the very low income limit of the receiving HA. If the receiving HA will absorb and the family will be changing its form of assistance, NMHC will determine if the family is within the low income limit of the receiving HA and advise the family accordingly.
  - (2) NMHC will notify the receiving HA that the family wishes to relocate into its jurisdiction and advise the family how to contact and request assistance from the receiving HA.
  - (3) NMHC will provide the following documents and information to the receiving HA:
    - (i) A copy of the family's certificate or voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
    - (ii) The most recent HUD 50058 form and verifications.
    - (iii) Declarations and certifications of U.S. citizenship/eligible immigrant status.
    - (iv) The complete portability form (HUD-52665).

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- (4) The receiving HA must notify NMHC within 6 months of the following:
  - (i) The receiving HA decides to absorb the family into their own program.
  - (ii) The family leases up or fails to submit a request for lease approval by the required date.
  - (iii) Assistance to a portable family is terminated by the receiving HA.
  - (iv) The family requests to move to an area outside the receiving HA's jurisdiction.

(f) Claims

NMHC will be responsible for collecting amounts owed by the family for claims paid and for monitoring the repayment. NMHC will notify the receiving HA if the family is in arrears or if the family has refused to sign a repayment agreement, and the receiving HA will be asked to terminate assistance to the family as allowed by the Administrative Plan codified in this chapter.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (f).

The 2000 amendments amended subsections (d)(1).

In subsection (e)(3)(iv), the Commission inserted the final period.

### **§ 100-80-1225 Incoming Portability**

(a) Absorption or Administration

- (1) NMHC will accept a family with a valid certificate/voucher from another jurisdiction and absorb the certificate/voucher provided that funding is available. The family will be issued a "portability" certificate or voucher by NMHC with the same start date. NMHC may grant extensions in accordance with the Administrative Plan in this chapter.
- (2) NMHC will issue a "portability certificate" or "portability voucher" according to its own subsidy standards. If the family has a change in family composition which would change the certificate or voucher size, NMHC will change to the proper size based on its own subsidy standards.
- (3) NMHC will decide whether to extend the "portability certificate/voucher" and for what period of time. NMHC's policy on extensions will apply. However, if the family decides not to lease-up in the CNMI, the family must request an extension from the initial HA.

(b) Income and TTF of Incoming Portables

As receiving HA, NMHC will conduct a re-certification interview.

(c) Requests for Lease Approval

- (1) A briefing will be mandatory for all portability families.
- (2) When the family submits a request for lease approval, it will be processed using NMHC's policies. If the family does not submit a request for lease approval or does not execute a lease, the initial HA will be notified within six months by NMHC.

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(3) NMHC will notify the family of its responsibility to contact the initial HA if the family wishes to move outside the CNMI under continued portability.

(d) Terminations

The initial HA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial HA notifies NMHC that the family is in arrears or the family has refused to sign a repayment agreement, NMHC will terminate assistance to the family.

(e) Billing Procedures

Note: Billing procedures are only applicable if funds are not sufficient to absorb incoming certificates/vouchers.

(1) As receiving HA, NMHC will bill the initial HA monthly for housing assistance payments. The billing cycle for other amounts, including administrative fees and special claims will be monthly unless requested otherwise by the initial HA.

(2) NMHC will bill 100% of the housing assistance payment, 100% of special claims and 80% of the administrative fee (at the initial HA's rate) and any other HUD-approved fees, for each "portability" certificate/ voucher leased as of the first day of the month.

(3) NMHC will notify the initial HA of changes in subsidy amounts and will expect the initial HA to notify NMHC of changes in the administrative fee amount to be billed.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

The 2000 amendments amended subsections (a)(2), (a)(3), (c)(3) and (e)(2).

### **Part 1300 - Denial or Termination of Assistance**

#### **§ 100-80-1301 Grounds for Denial/Termination**

If denial or termination is based upon behavior resulting from a disability, NMHC will delay the denial or termination in order to determine if there is an accommodation which would negate the behavior resulting from the disability.

(a) Form of Denial/Termination

(1) Denial of assistance for an applicant may include any or all of the following:

(i) Denial for placement on NMHC waiting list.

(ii) Denying or withdrawing a certificate or voucher.

(iii) Refusing to enter into a HAP contract or approve a lease.

(iv) Refusing to process or provide assistance under portability procedures.

(2) Termination of assistance for a participant may include any or all of the following:

(i) Refusing to enter into a HAP contract or approve a lease.

(ii) Terminating housing assistance payments under an outstanding HAP contract.

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- (iii) Refusing to process or provide assistance under portability procedures.
- (b) **Mandatory Denial and Termination**  
NMHC must deny assistance to applicants, and terminate assistance for participants:
  - (1) If any member of the family refuses to sign and submit HUD or NMHC required consent forms for obtaining information.
  - (2) If no member of the family is a U.S. citizen or eligible immigrant.
  - (3) If the family is under contract and 180 days have elapsed since the NMHC's last housing assistance payment was made.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### **§ 100-80-1305 Family Obligations for Rental Assistance Programs**

- (a) The family must supply any information that NMHC or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 812\*). "Information" includes any requested certification, release, or other documentation.
- (b) The family must supply any information requested by NMHC or HUD for use in a regularly scheduled re-examination or interim re-examination of family income and composition in accordance with HUD requirements.
- (c) The family must disclose and verify Social Security numbers (as provided by 24 CFR part 750\*) and must sign and submit consent forms for obtaining information in accordance with 24 CFR parts 5, 760, 813, and other applicable HUD regulations.
- (d) All information supplied by the family must be true and complete.
- (e) The family is responsible for an HQS breach caused by the family as described in 982.404(b)\*.
- (f) The family must allow NMHC to inspect the unit at reasonable times and after reasonable notice.
- (g) The family may not commit any serious or repeated violation of the lease.
- (h) The family must notify the owner and, at the same time, notify NMHC before the family moves out of the unit or terminates the lease on notice to the owner.
- (i) The family must promptly give NMHC a copy of any owner eviction notice.

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- (j) The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- (k) The composition of the assisted family residing in the unit must be approved by NMHC. The family must promptly inform NMHC of the birth, adoption, or court awarded custody of a child. The family must request NMHC approval to add any other family member as an occupant of the unit.
- (l) The family must promptly notify NMHC if any family member no longer resides in the unit.
- (m) If NMHC has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or NMHC approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
- (n) Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family and only if the owner agrees.
- (o) The family must not sublease or let the unit.
- (p) The family must not assign the lease or transfer the unit.
- (q) The family must supply any information or certification requested by NMHC to verify that the family is living in the unit, or relating to family absence from the unit, including any NMHC-requested information or certification on the purposes of family absences. The family must cooperate with NMHC for this purpose. The family must promptly notify NMHC of extended absence from the unit.
- (r) The family must not own or have any interest in the unit.
- (s) The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with federal and/or Commonwealth housing programs.
- (t) The members of the family may not engage in drug-related criminal activity or violent criminal activity in or about the unit and/or project.
- (u) An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, Commonwealth, or local housing assistance program.
- (v) Housing Authority Discretion
  - (1) In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, NMHC has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual



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family members, the length of time since the violation occurred and more recent record of compliance and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

(2) NMHC may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit NMHC may permit the other members of the family to continue in the program.

\* So in original. See Commission Comment.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The final paragraph was not designated. The Commission designated subsection (v).

The 2000 amendments amended subsection (c).

In subsection (c), the Commission changed “part” to “parts” to correct a manifest error. The Commission inserted commas after the words “adoption” in subsection (k) and “bribery” in subsection (s) pursuant to 1 CMC § 3806(g).

Section 982.404(b), referenced in subsection (e), does not exist in the original regulation. 24 CFR 982.404(b) describes HQS breaches.

24 CFR Part 812, referenced in subsection (a), and Parts 750, 760, and 813, referenced in subsection (c), do not exist.

### **§ 100-80-1310            Enforcing Family Obligations; Explanation & Terms**

(a) “Promptly” when used with the family obligations always means “within ten days.” Denial or termination of assistance is always optional except where the plan in this chapter or HUD or NMHC regulations state otherwise.

(b) HQS breach: The inspectors and Section 8 specialist will determine if an HQS breach as identified by HUD regulations is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Section 8 specialist.

(c) Lease violations: The following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance:

(1) If the owner terminates tenancy through court action for serious or repeated violation of the lease.

(2) If there are police reports, neighborhood complaints or other third party information, and NMHC has verified the information.

(d) Notification of eviction: If the family requests assistance to move and they did not notify NMHC of an eviction within ten days of receiving the notice of lease termination, the move will be denied.

(e) Proposed additions to the family will be denied to:

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- (1) Persons who have been evicted from public housing for drug-related or violent criminal activities.
  - (2) Persons who have previously violated a family obligation as stated in this plan, or HUD or NMHC regulations.
  - (3) Persons who have been a head of household or spouse whose assistance has been terminated under the certificate or voucher program.
  - (4) Persons who do not meet the NMHC's definition of family.
  - (5) Persons who commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
  - (6) Persons who currently owe rent or other amounts to NMHC or to another HA in connection with Section 8 or public housing assistance under the 1937 Act.
  - (7) Persons who have engaged in or threatened abusive or violent behavior toward NMHC personnel.
- (f) Family member move out: Families are required to notify NMHC if any family member leaves the assisted household. When the family notifies NMHC, they must furnish the following information:
- (1) The date the family member moved out.
  - (2) The new address, if known, of the family member.
  - (3) A statement as to whether the family member is temporarily or permanently absent.
- (g) Limitation on profit-making activity in unit:
- (1) If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.
  - (2) If NMHC determines that the use of the unit as a business is not incidental to its use as a dwelling unit, then said business use of the unit must cease, or assistance may be terminated.
- (h) Interest in unit: The owner may not reside in the assisted unit regardless of whether s/he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the certificate program.
- (i) Fraud:
- (1) In each case, NMHC will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.
  - (2) In the event of false citizenship claims, NMHC will give the family member the opportunity to elect not to contend their status in lieu of termination of the entire family.
- (j) Drug-related or violent criminal activity:
- (1) Drug-related criminal activity means:
    - (i) The manufacture, sale or distribution, or the possession with intent to manufacture, sell or distribute, of a controlled substance (as defined in the Federal Controlled Substance Act);
    - (ii) The use or possession (other than with intent to manufacture, sell, or distribute) of a controlled substance.

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(iii) Drug-related criminal activity does not include the prior use or possession of a controlled substance if the family member had an addiction to the substance and has recovered or is recovering from the addiction and does not currently use or possess the substance.

(2) Violent criminal activity includes:

(i) Any criminal activity, that has as one of its elements, the use, attempted use, or threatened use, of physical force against a person or property; and

(ii) The activity is being engaged in by any family member.

(k) Notice of termination of assistance

In any case where NMHC decides to terminate assistance to the family, NMHC must give the family written notice which states:

(1) The reason(s) for the proposed termination,

(2) The effective date of the proposed termination,

(3) The family's right, if they disagree, to request an informal hearing to be held before termination of assistance.

(4) The date by which a request for an informal hearing must be received.

(1) NMHC will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the termination of assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (l).

The 2000 amendments amended subsections (a), (b), (e)(2) and (g)(2).

In subsection (e)(4), the Commission changed the final comma to a period for consistency within the subsection. The Commission inserted a comma after the word "bribery" in subsection (e)(5) pursuant to 1 CMC § 3806(g).

### **§ 100-80-1315 Procedures for Non-citizens**

(a) Termination Due to Ineligible Immigrant Status

(1) Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

(2) Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated. They must be given an opportunity for a hearing.

(b) Temporary Deferral of Termination of Assistance

(1) Ineligible families who were participants as of June 19, 1995, may request a temporary deferral of termination of assistance in order to allow time to locate affordable housing and thereby preserve the family.

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(2) Temporary deferral of termination of assistance is also available to mixed families who were participants on June 19, 1995, who elect not to accept prorated assistance, and are not eligible for continued assistance. NMHC must allow the mixed family time to find housing for ineligible members or for the entire family by deferring the termination.

(3) Mixed families who choose temporary deferral of termination of assistance may change to prorated assistance at the end of any deferral period, if they have made a good-faith effort to locate housing.

(c) Criteria for Approving Temporary Deferral of Termination of Assistance

(1) NMHC will grant temporary deferral so long as the family makes reasonable efforts to find affordable housing.

(2) Affordable housing is defined as housing that is standard and of appropriate size, based on HQS, and for which the rent plus utilities is no more than twenty-five percent greater than the NMHC calculated total tenant payment.

(3) To determine whether a family is eligible for temporary deferral of termination of assistance or for a renewal of temporary deferral of termination of assistance, NMHC will:

(i) Require a search record to document the family's efforts to locate housing before granting or extending temporary deferral of termination of assistance.

(d) Length of Deferral

(1) The initial temporary deferral is granted for an interval not to exceed six months. Additional deferrals can be made up to a maximum of three years. A notice is sent to the family at the beginning of each deferral period reminding them of their ineligibility for full assistance and their responsibility to seek other housing.

(2) The family will be notified in writing sixty days before the end of the three year maximum deferral period that there cannot be another deferral, and will be offered the option of prorated assistance if they are a mixed family and have made a good-faith effort to locate affordable housing.

(e) False or Incomplete Information

(1) When NMHC has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

(2) If the individual is unable to verify their citizenship, NMHC may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. NMHC will then verify eligible status, deny, terminate, or prorate as applicable.

(3) NMHC will deny or terminate assistance based on the submission of false information or misrepresentations.

(f) Procedure for Denial or Termination

(1) If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with NMHC either after the INS appeal or in lieu of the INS appeal.

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(2) After NMHC has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable) or for participants who qualify, for temporary deferral of termination of assistance.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (f).

The 2000 amendments amended subsection (c)(2).

### **§ 100-80-1320            \$0 Assistance Tenants**

#### (a) Old Contracts

For contracts which were effective prior to October 2, 1995, NMHC is liable for unpaid rent and damages if the family vacates during the allowable twelve month period after the last HAP payment. NMHC must perform all of the functions normally required, such as reexaminations and inspections. The participant will be notified of the right to remain on the program at \$0 assistance for twelve months. If the family is still in the unit after twelve months, the housing assistance payment contract will be terminated.

#### (b) New Contracts

(1) For contracts effective after October 2, 1995, NMHC has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to one hundred eighty days after the last HAP payment. If the family is still in the unit after one hundred eighty days, the housing assistance payment contract will be terminated. If within the one hundred eighty day time frame an owner rent increase or a decrease in the total tenant payment causes the family to be eligible for a housing assistance payment, NMHC will resume assistance payments for the family.

(2) In order for a family to move to another unit during the one hundred eighty days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### **§ 100-80-1325            Option Not to Terminate for Misrepresentation**

If the family has misrepresented any facts that caused NMHC to overpay assistance, NMHC may choose not to terminate and may offer to continue assistance provided that the family executes a repayment agreement and makes payments in accordance with the agreement or reimburses NMHC in full.

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Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### **§ 100-80-1330 Misrepresentation in Collusion with Owner**

(a) If the family willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, NMHC will deny or terminate assistance and report the activities to the HUD Regional Inspector General for investigation.

(b) In making this determination, NMHC will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

### **Part 1400 - Owner Restrictions**

#### **§ 100-80-1401 Policy**

It is the policy of NMHC to recruit owners to participate in the program, and to provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of NMHC. The regulations in this chapter define when NMHC must disallow an owner from participating in the rental assistance programs and HUD provides NMHC with discretion to disapprove or otherwise restrict the participation of owners in certain categories.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: This section was originally an introduction to part XIV, codified at part 1400. The Commission created the section title.

#### **§ 100-80-1405 Owner Restrictions and Penalties**

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, NMHC will restrict the owner from future participation in the rental assistance programs for a period of time commensurate with the seriousness of the offense. NMHC may also terminate some or all contracts with the owner.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

**§ 100-80-1410            Overpayments to Owners**

(a) If the landlord has been overpaid as a result of fraud, misrepresentation, or violation of the housing assistance payment contract, NMHC may terminate the contract and arrange for restitution to NMHC and/or family as appropriate.

(b) NMHC will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay NMHC or the tenant as applicable.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The Commission inserted a comma after the word “misrepresentation” in subsection (a) pursuant to 1 CMC § 3806(g).

**Part 1500 -    Claims, Move-out and Close-out Inspections**

**§ 100-80-1501            Owner Claims**

(a) Under HAP contracts effective prior to October 2, 1995, owners may make “special claims” for damages, unpaid rent, and vacancy loss (vacancy loss cannot be claimed in the voucher program) after the tenant has vacated the unit.

(b) Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. NMHC establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

(c) If vacancy loss is claimed, NMHC will ascertain whether or not the family gave proper notice of their intent to move. The file will also be reviewed to verify owner compliance at the time the contract was terminated.

(d) NMHC will pay properly filed claims to the owner as a function of the contract, but the tenant is ultimately responsible to reimburse NMHC for claims paid to the owner.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d). The Commission inserted a comma after the word “damages” in subsection (b) pursuant to 1 CMC § 3806(g).

**§ 100-80-1505            Unpaid Rent**

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Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP contract.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### **§ 100-80-1510 Vacancy Loss in the Certificate Program**

(a) Vacancy loss is applicable to the certificate program only. Vacancy loss is paid if the move was in violation of the notice requirements in the lease.

(b) In order to claim vacancy loss, the unit must be available for lease and the landlord must:

- (1) Notify NMHC within ten days upon learning of the vacancy, or prospective vacancy, and
- (2) Pursue all possible activities to fill the vacancy including the following:
  - (i) Seeking eligible applicants by listing the unit with NMHC
  - (ii) Advertising the availability of the unit
  - (iii) Not rejecting potentially eligible applicants except for good cause.

(c) In the event that a unit becomes vacant because of death, NMHC will permit the owner to keep the HAP for the month in which the tenant died.

(d) If the tenant moves after the date given on their notice of intent to vacate, the landlord may claim vacancy loss by providing acceptable documentation that there was a bona fide prospective tenant to whom the unit could have been rented.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

In subsection (b)(2)(iii), the Commission inserted the final period.

### **§ 100-80-1515 Damages**

(a) Certificate Program

Maximum NMHC liability is the lesser of:

- (1) The total amount of damage claim, or
- (2) Two month's contract rent minus the security deposit actually collected or that could have been collected under program regulations.

(b) Voucher Program

Maximum NMHC liability is the lesser of:

- (1) The total amount of damage claim, or



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(2) One month's contract rent minus the security deposit actually collected or that could have been collected under program regulations.

(c) To ensure valid claim processing, NMHC will conduct a thorough move-in inspection noting "conditions" as well as HQS deficiencies, take pictures of questionable items, and send a report of all items to the owner and the tenant.

(d) The owner must be present during the move-out inspection and only damages claimed by the owner are reimbursable.

(e) All claims for damages must be supported by actual bills for materials and labor and a copy of the canceled checks or other receipts documenting payment. Estimates are not acceptable.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

In subsections (a)(2) and (b)(2), the Commission inserted the final periods.

### **§ 100-80-1520            Move-out and Close-out Inspections**

(a) There will be no move-out inspections of units with contracts effective on or after October 2, 1995.

(b) The owner must notify NMHC of the move-out and request an inspection within ten days of learning of the move out in order to submit a claim for damages.

(c) If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

(d) NMHC will not conduct a move-out inspection on tenant's request if the owner does not also request an inspection. It is the tenant's responsibility to document the condition of the unit at move-out.

(e) A damage claim will not be approved unless the move-out inspection is requested and completed prior to any work being done.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

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Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

### **§ 100-80-1525            Processing Claims**

- (a) NMHC reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of amount payable. The family is informed that a claim is pending by notice sent to their last known address. The notification will state the preliminary determined amount, the type of claim, and describe the procedure for contesting the claim.
- (b) NMHC will offer the family ten days to contest the claim. If the family disputes the claim, NMHC will schedule a claim review with the owner and tenant in order to resolve the differences.
- (c) If the family misses the claim review, another will not be scheduled unless there are extenuating circumstances.
- (d) At the claim review, if the family demonstrates that the claim, or part of it, is invalid, NMHC will adjust the amount.
- (e) After a determination is made, NMHC will notify the family in writing of the decision. If it is determined that the family owes money and the owner's claim is valid, the family will be notified to pay the approved claim to the owner within ten days. If payment is not made to the owner by the tenant, NMHC will pay the claim and NMHC will pursue collection to be repaid either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse NMHC as required.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

### **Part 1600 -    Complaints and Appeals**

#### **§ 100-80-1601            Complaints to NMHC**

- (a) NMHC will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. NMHC may require that complaints including HQS violations, be put in writing.
- (b) All complaints will first be referred to the applicable Section 8 assistant. If the complaint cannot be resolved by the assistant, then it will be referred to the Section 8 specialist. If the Section 8 specialist is unable to resolve the matter to the family's satisfaction, then the family

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may pursue the matter in accordance to NMHC's Grievance Procedures [NMIAC, title 100, chapter 70].

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 2000 amendments amended subsection (b).

In subsection (b), the Commission deleted the repeated word "then" and corrected the spelling of "Grievance."

### **§ 100-80-1605 Preference Denials**

When NMHC denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and be offered the opportunity to meet with NMHC staff to discuss the reasons for denial and to dispute NMHC's decision.

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

### **§ 100-80-1610 Reviews and Hearings**

All grievances shall be heard in accordance with NMHC's Grievance Procedures [NMIAC, title 100, chapter 70]. A copy of NMHC's Grievance Procedures shall be given to each family during their initial briefing.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000).

Commission Comment: The Commission corrected the spelling of "grievance" each time it occurs in this section.

### **§ 100-80-1615 Informal Reviews for Applicants**

(a) Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance based on citizenship or eligible immigrant status, the applicants is entitled to an informal hearing.

(b) When NMHC determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice will contain the reason(s) they are ineligible, the procedure for requesting a review if the applicant does not agree with the decision and the time limit for requesting a review.

(c) NMHC must provide applicants with the opportunity for an informal review of decisions denying:

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- (1) Listing on NMHC's waiting list
  - (2) Issuance of a certificate or voucher
  - (3) Participation in the program.
- (d) Informal reviews are not required for established policies and procedures and NMHC determinations such as:
- (1) Discretionary administrative determinations by NMHC
  - (2) General policy issues or class grievances
  - (3) A determination of the family unit size under NMHC occupancy standards
  - (4) Refusal to extend or suspend a certificate or voucher
  - (5) Disapproval of lease
  - (6) Determination that a unit is not in compliance with HQS
  - (7) Determination that a unit is not in accordance with HQS due to family size or composition.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 2000 amendments amended subsections (d)(6) and (d)(7).

In subsections (c)(3) and (d)(7), the Commission inserted the final period.

### **§ 100-80-1620 Informal Hearings**

- (a) NMHC will provide a copy of the hearing procedures in the family briefing packet.
- (b) When NMHC makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. NMHC will give the family prompt notice of such determinations which will include:
  - (1) The proposed action or decision of NMHC
  - (2) The date the proposed action or decision will take place
  - (3) The explanation of the basis for NMHC's decision
  - (4) The procedures for requesting a formal hearing if the family disputes the action or decision
  - (5) The time limit for requesting the formal hearing
  - (6) To whom the formal hearing request should be addressed.
- (c) NMHC must provide participants with the opportunity for an informal hearing for decisions related to any of the following:
  - (1) Determination of the family's annual or adjusted income and the computation of the housing assistance payment
  - (2) Determination to terminate assistance for any reason
  - (3) Determination to pay an owner claim for damages, unpaid rent or vacancy loss

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(4) Termination of the certificate or voucher holder in the event of the break-up of the family.

(d) NMHC must always provide the opportunity for an informal hearing before termination of assistance.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000); Adopted 21 Com. Reg. 16704 (Apr. 19, 1999); Proposed 21 Com. Reg. 16471 (Feb. 18, 1999).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

In subsections (b)(6) and (c)(4), the Commission inserted the final periods.

### **§ 100-80-1625 Formal Hearings**

If a family is entitled to a formal hearing, as set forth by HUD or NMHC regulation, or by NMHC's Grievance Procedures [NMIAC, title 100, chapter 70], then the same shall be conducted in accordance with said procedures. NMHC shall make every effort to resolve all complaints in the review or informal hearing stage.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000).

Commission Comment: The Commission corrected the spelling of "Grievance."

### **Part 1700 - Minimum Rent**

#### **§ 100-80-1701 Minimum Rent**

NMHC will charge a family no less than a minimum monthly rent of twenty-five dollars per month, except for in the case of financial hardship.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000).

Commission Comment: On November 15, 1996, NMHC published emergency and proposed "Regulations Regarding the Minimum Rent for NMHC Section 8 Housing Units." See 18 Com. Reg. 14461 (Nov. 15, 1996). A notice of permanent adoption was never published.

#### **§ 100-80-1705 Financial Hardship Exemption from Minimum Rent**

NMHC shall grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship. Financial hardship includes these situations:

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- (a) When the family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program, including a family that includes a member who is a non citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- (b) When the family would be evicted because it is unable to pay the minimum rent;
- (c) When the income of the family has decreased because of changed circumstances, including loss of employment;
- (d) When a death has occurred in the family; and
- (e) Other circumstances determined by NMHC or HUD.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000).

### **§ 100-80-1710 Requesting a Hardship**

- (a) If a family requests a financial hardship exemption, NMHC shall suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until NMHC determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term.
- (b) NMHC shall promptly determine whether a qualifying hardship exists and whether it is temporary or long term.
- (c) If NMHC determines that a qualifying financial hardship is temporary, NMHC shall not impose the minimum rent during the ninety day period beginning the month following the date of the family's request for a hardship exemption. At the end of the ninety day suspension period, NMHC must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by NMHC, for the amount of back rent owed by the family.
- (d) If NMHC determines there is no qualifying financial hardship exemption, NMHC shall reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by NMHC.
- (e) If NMHC determines a qualifying financial hardship is long term, NMHC shall exempt the family from the minimum rent requirements so long as such hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

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(f) The financial hardship exemption only applies to payment of the minimum rent, and not to the other elements used to calculate the total tenant payment (as determined pursuant HUD regulation).

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000).

### **§ 100-80-1715            Effective Date**

This part shall have a rolling effective date, such that it shall become effective as to a particular family, on the first month falling after their next certification after the adoption date of this regulation. For new families admitted after the regulations in this part are adopted, this part shall immediately apply.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 22 Com. Reg. 17586 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17410 (Sept. 20, 2000).