

6-III.B. FINANCIAL HARDSHIPS DUE TO MINIMUM RENT OR RENT REFORM POLICIES UNDER THE MOVING TO WORK DEMONSTRATION [24 CFR 5.630 AND THE AMENDED AND RESTATED MTW AGREEMENT]

Overview

If a PHA establishes a minimum rent greater than zero, HUD requires the PHA to grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption from the minimum rent. If the PHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

For a PHA in the Moving to Work demonstration, HUD requires the agency to adopt a policy for addressing hardship cases caused by agency established rent reform initiatives.

Minimum Rent Financial Hardships

For a financial hardship exemption from minimum rent, HUD defines financial hardship to include the following situations:

1. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program.
2. The family would be evicted because it is unable to pay the minimum rent.
3. Family income has decreased because of changed family circumstances, including the loss of employment.
4. A death has occurred in the family.

VHA Policy

A hardship will considered to exist under HUD definition number 1 only if the loss of eligibility has an impact on the family's ability to pay minimum rent. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following the implementation of assistance, if approved, or the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

For a family to qualify under HUD definition number 2, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

In order to qualify under HUD definition number 4, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

VHA has not established any additional minimum rent hardship criteria.

MTW Rent Reform Financial Hardships

VHA Policy

VHA has implemented the following MTW rent reform initiatives and established examples of criteria for a hardship to exist under each initiative:

1. Imputed TANF income when a family voluntarily terminates a TANF grant:
 - The family is facing eviction and/or utility shutoff because they are unable to pay rent based on the imputed income and cannot reactivate their TANF grant or establish other income.

2. Elimination of Utility Allowance Payment (UAP) after 6 months:
 - The family is facing eviction and/or utility shutoff due to increased housing cost due to the elimination of their UAP.
3. Elimination of deduction for medical expenses:
 - The family is facing eviction and/or utility shutoff due to an increase in tenant rent because of the elimination of the medical expense deduction.

The VHA recognizes that participating families may experience financial hardship outside of the examples provided above. However, hardship exemptions will generally only be approved for financial hardships directly caused by VHA policy initiatives under the MTW demonstration.

Hardship Exemption Requests

VHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and which VHA policy/s the family is requesting to be exempt from. Persons with disabilities, limited English proficiency, or who do not possess basic literacy skills may request assistance from VHA staff with preparing their request.

Requests will be reviewed to see if the family has actually been impacted by the minimum rent or a MTW rent reform policy. If not, the request will not be accepted and the family will be notified in writing.

After acceptance of the exemption request the VHA will suspend the minimum rent requirement or relevant MTW policy beginning the first of the month following the family's request. When the minimum rent is suspended, the Total Tenant Payment (TTP) reverts to the highest of the remaining components of the calculated TTP. When a MTW policy is suspended the rent calculation reverts to the calculation without the policy.

VHA will not evict the family for nonpayment of minimum rent during the 90 day period beginning the month following the family's request for a hardship exemption.

Determination of Hardship

VHA Policy

Hardship requests will be considered by a panel consisting of the VHA Executive Director and two other persons designated by the Executive Director. The panel will make a determination within 30 days of receipt of the request.

The panel may require the family to meet with the panel or with other VHA staff to provide additional information or may require the family to provide additional verification of any factors used in making a determination, such as the family's loss of income, unpaid expenses, notices, etc.

The panel may set conditions the family must meet in order to have the hardship request approved. Conditions may include requiring the family to apply for benefits they may be eligible for, and/or participate in a self-sufficiency program or educational classes offered by the VHA or a partnering agency. The Panel will determine if a financial hardship exists, whether the hardship is temporary (expected to last 90 days or less) or long-term (expected to last more than 90 days), and the appropriate implementation of a hardship exemption.

Implementation of Hardship Exemption Determinations

No Financial Hardship

If the VHA determines that no financial hardship exists on a minimum rent exemption request HUD requires that the VHA reinstate the minimum rent effective the date of any suspension and to require the family to repay any rent owed under the terms and conditions established by the VHA.

For procedures pertaining to grievance hearing requests based upon the VHA's denial of a hardship exemption from minimum rent, see Chapter 14, Grievances and Appeals.

VHA Policy

If the VHA panel determines there is no financial hardship on an exemption request regarding a MTW initiative, VHA will reinstate any suspended initiative effective back to the date suspended and require the family to repay any amounts owed by the family.

The VHA will require the family to repay any amounts owed under a suspension within 30 calendar days of the notice that a hardship exemption has not been granted.

As the VHA panel is comprised of members from the highest level of the VHA, a decision by the panel regarding a hardship exemption from an MTW initiative is final.

Temporary Hardship

If the VHA determines that a qualifying financial hardship is temporary on a minimum rent exemption request, HUD requires that the family resume payment of the minimum rent and that they must repay the VHA the amounts suspended. HUD requires the VHA to offer a reasonable repayment agreement, on terms and conditions established by the VHA for the amount of back rent owed by the family.

For procedures pertaining to grievance hearing requests based upon the VHA's denial of a hardship exemption from minimum rent, see Chapter 14, Grievances and Appeals.

VHA Policy

If the VHA panel determines that a temporary hardship exists on an exemption request regarding a MTW initiative, the panel may determine that no exemption be granted or that a temporary exemption be granted depending on the severity of the hardship and the expected recovery from the hardship.

A temporary exemption may include a decision to suspend a rent increase for a specific period of time, phase in a rent increase over a specific period of time, extend the period of time a family can receive a Utility Allowance Payment, or to provide additional time before a family is required to move to a less expensive rental.

The VHA will enter into a repayment agreement in accordance with the VHA's repayment agreement policy (see Chapter 16) for any amounts determined to be owed by the family from a suspension made prior to a determination of temporary hardship.

As the VHA panel is comprised of members from the highest level of the VHA, a decision by the panel regarding a hardship exemption from an MTW initiative is final.

Long-Term Hardship

If the VHA determines that the financial hardship is long-term on a minimum rent exemption request, HUD requires the VHA to exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

VHA Policy

If the VHA panel determines that a long-term hardship exists on an exemption request regarding a MTW initiative, the panel will determine that an exemption be granted as long as the hardship continues. Exemptions may include, but are not limited to, requiring VHA staff to calculate the family's rent and assistance according to HUD regulations without one or more MTW rent reform initiatives or requiring that the family's rent be capped at a ceiling amount determined by the panel to be affordable for the family.

The hardship period ends when any of the following circumstances apply:

1. At an interim or annual reexamination, the family's income has increased so that the calculated TTP is greater than the minimum rent or adequate to offset the effect of the exempted MTW policy.
2. For hardship conditions based upon hardship-related expenses, the hardship period ends if the family no longer has the expenses.