

## Exhibit 2-8 Live-In Aide

### **HUD Regulation – 24 CFR 5.609(c)**

Annual income does not include the following:

(5) Income of a live-in aide, as defined in §5.403

### **HUD Regulation – 24 CFR 982.308**

(f) Tenancy addendum.

(1) The HAP contract form required by HUD shall include an addendum (the “tenancy addendum”), that sets forth:

- (i) The tenancy requirements for the program (in accordance with this section and §§982.309 and 982.310); and
- (ii) The composition of the household as approved by the PHA (family members and any PHA-approved live-in aide).

### **HUD Regulation – 24 CFR 982.552**

(h) Use and occupancy of unit

(4) If the PHA has given approval, a foster child or a live-in-aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining when PHA consent may be given or denied.

### **HUD Regulation – 24 CFR 983.2**

(a) 24 CFR Part 982. Part 982 is the basic regulation for the tenant-based voucher program. Paragraphs (b) and (c) of this section describe the provisions of part 982 that do not apply to the PBV program. The rest of part 982 applies to the PBV program. For use and applicability of voucher program definitions at §982.4, see §983.3.

## **1. Reasonable Accommodation**

### **HUD Regulation – 24 CFR 982.316**

(a) A family that consists of one or more elderly, near-elderly or disabled persons may request that the PHA approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program



accessible to and usable by the family member with a disability. (See §982.402(b)(6) concerning effect of live-in aide on family unit size.)

#### **AHFC Policy**

As a reasonable accommodation, an elderly family or person with a disability may request that AHFC assign a larger unit or subsidy standard than what is required by the occupancy standard in Public and Section 8 New Multifamily Housing or the subsidy standard established in the Housing Choice Voucher program to accommodate a live-in aide.

## **2. Definitions**

#### **HUD Regulation – 24 CFR 5.403**

Household, for purposes of 24 CFR part 5, subpart I<sup>1</sup>, and parts, 960, 966, 882, and 982, means the family and PHA-approved live-in aide.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons; and
- (3) Would not be living in the unit except to provide the necessary supportive services.

#### **HUD Regulation – 24 CFR 982.4**

(a) Definitions found elsewhere

(1) General definitions. The following terms are defined in part 5, subpart A of this title: 1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, MSA, other person under the tenant's control, public housing, Section 8, and violent criminal activity.

#### **HUD Regulation – 24 CFR 983.3**

(a) Use of PBV definitions

(1) PBV terms (defined in this section). This section defines PBV terms that are used in this part 983. For PBV assistance, the definitions in this section apply to use of the defined terms in part 983 and in applicable provisions of 24 CFR

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<sup>1</sup> Subpart I details a PHA's responsibilities for screening for criminal activity or alcohol abuse.

part 982. (Section 983.2 specifies which provisions in part 982 apply to PBV assistance under part 983.)

Activities of daily living. Eating, bathing, grooming, dressing, and home management activities.

#### **AHFC Policy**

A live-in aide is a specific person who resides with one or more elderly, near-elderly, or disabled persons and meets all of the following conditions:

1. Is qualified to provide the needed care recommended by a health care professional as essential to the well-being of a family member;
2. Is not obligated for the support of that person – a live-in aide will maintain separate finances from the household member;
3. Would not be living in the unit except to provide the necessary supportive services – a live-in aide cannot be living with the family member receiving assistance prior to becoming the aide;
4. Establishes the unit as his/her primary residence; and
5. Will not be eligible to continue to receive the benefit of assistance if the family member is no longer eligible to receive assistance or vacates the unit.

### **2.A Family Member as a Live-in Aide**

An individual already living in the unit may provide necessary care to a family member. However, this individual cannot be classified as a live-in aide. This individual will continue to be counted as a family member for purposes of determining eligibility, income, and unit size or subsidy level.

If a proposed live-in aide is a relative of a family member, AHFC may ask the proposed live-in aide to provide verification of his/her prior residence. If the individual is approved as a live-in aide, the family will receive additional subsidy to house this individual.

### **2.B An Aide Provided by an Agency**

A live-in aide provided through an agency who will claim the unit as his/her residence must pass AHFC's screening criteria. The family will receive additional subsidy to house this individual.

### **2.C Occasional, Rotating, or Intermittent Care**

Aides provided by a family or through an agency who will rotate or provide occasional or intermittent care are not subject to AHFC's screening criteria as the unit is not the

primary residence. Current HUD regulations do not permit additional subsidy for these types of aides.

A family may request a reasonable accommodation for additional subsidy for AHFC to consider on a case-by-case basis. AHFC's 504 Coordinator, or designee, will review these requests.

### **3. Verification Procedures**

A family is required to report all changes to family composition to AHFC. This includes the addition or removal of a live-in aide.

#### **HUD Regulation – 24 CFR 982.316**

(b) At any time, the PHA may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if:

(1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

(2) The person commits drug-related criminal activity or violent criminal activity; or

(3) The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

#### **HUD Regulation – 24 CFR 982.552**

(h) Use and occupancy of unit

(2) The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. No other person [i.e., nobody but members of the assisted family] may reside in the unit (except for a foster child or live-in aide as provided in paragraph (h)(4) of this section).

**Public & Indian Housing Notice 2014-25<sup>2</sup>**

**3. Programmatic Explanations.**

A. Live-in Aides. Although a health care provider must document the need for a live-in aide (which would result in the issuance of an additional bedroom size voucher) the live-in aide must be identified by the family and approved by the PHA first.

Occasional, intermittent, multiple or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances.

**AHFC Policy**

1. AHFC will screen all individuals who will live in the unit using its screening criteria in Chapter 2.
2. Persons serving as rotating or intermittent aides will not be screened by AHFC as they will not reside in the unit.
3. AHFC may conduct an inspection at any time (after proper notification to the family) to verify a live-in aide is residing in a subsidized unit.

AHFC will notify the family if an individual is not approved as a live-in aide. Any documentation supporting the denial will be attached to the written notification. The family is eligible to grieve the denial under AHFC's grievance procedures.

**4. Subsidy or Occupancy Standard**

**HUD Regulation – 24 CFR 982.402**

Subsidy Standards. (b) Determining family unit size. The following requirements apply when the PHA determines family unit size under the PHA subsidy standards:

(7) Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the PHA subsidy standards.

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<sup>2</sup> Public and Indian Housing Notice 2014-25, "Over Subsidization in the Housing Choice Voucher Program," issued October 16, 2014.

### **HUD Regulation – 24 CFR 5.703**

National standards for the condition of HUD housing. (d) The unit must also meet the following affirmative requirements:

(5) For units assisted under the HCV or PBV program, the unit must have at least one bedroom or living/sleeping room for each two persons.

#### **AHFC Policy**

1. For AHFC-owned units where available, AHFC will increase a family's unit size by one bedroom in order to house an approved live-in aide. A family may choose to reside in a smaller unit.
2. For voucher programs, AHFC will increase a family's subsidy standard by one level in order to house an approved live-in aide. A family may choose to reside in a smaller unit.

## **5. Regular Examination Process**

#### **AHFC Policy**

1. If a family member's disability and continuing need for a live-in aide is apparent and the live-in aide remains the same, the family will not be required to re-verify their need for the live-in aide.
2. If a family member has a live-in aide provided by a State-funded agency, the family will not be required to re-verify the need for a live-in aide.

### **5.A Family Change of Live-in Aide**

If a family wants to change the person serving as the live-in aide, the family must request to add the person to the household. This person is subject to AHFC's screening criteria.

### **5.B Change of Rotating or Intermittent Aide**

If a state-funded agency is providing rotating or intermittent aides, the family does not need to have the aide screened by AHFC when the aide changes. The agency certifies to the screening criteria.

### **5.C Families “Between” Live-In Aides**

The family must notify AHFC:

1. Whenever a live-in aide will no longer provide services to the family and is vacating the unit.
2. Whenever a live-in aide no longer uses the unit as his/her primary residence. The aide may or may not continue to provide services to the family.
3. Whenever the family no longer requires or is not eligible for the services of a live-in aide.

## **6. Removal of a Live-In Aide**

The family is required to report when a household member vacates a unit within ten (10) business days of the event.

### **AHFC Policy**

1. If the family member requiring care vacates the unit, the live-in aide will vacate the unit within 72 hours of the family member.
2. If the family member previously requiring care no longer requires care, the live-in aide will vacate the unit within 72 hours of notification by the family or AHFC, whichever is earliest.
3. Changes to the family’s subsidy or occupancy standard will be applied at the family’s next regular examination or at the anniversary date of the examination, whichever is earliest.

## **7. Expense Deductions**

For families eligible for medical expense deductions, if a family is required to pay for the expense of a live-in aide out of their own pocket, the live-in aide expense may qualify as a medical expense deduction. See Chapter 3 for detailed guidance on this subject.

### **Numbered Memo**

25-25 Implementation of the National Standards for the Physical Inspection of Real Estate for Voucher Programs