VIOLENCE AGAINST WOMEN ACT

WHEDA

Emergency Transfer Plan

- HUD Form-5381



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WHEDA
WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

The Public Housing Authority (PHA) is concerned about the safety of its participants, and such concern extends to participants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act of 1994, as amended ("VAWA"), PHA allows any participants who are a victim of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the participants' current unit to another unit. VAWA protections are not limited to women and are available regardless of age, actual or perceived sexual orientation, gender identity, sex, or marital status. Victims cannot be discriminated against on the basis of any protected characteristic including race, color, national origin, religion, sex (including perceived or actual sexual orientation or gender identity), familial status, disability, or age. HUD-assisted and HUD-insured housing must also be made available to all otherwise eligible individuals and families regardless of age, actual or perceived gender identity, sexual orientation, or marital status.

This plan identifies participants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance regarding safety and security. The plan is based on federal regulations found at 24 Code of Federal Regulations (CFR) part 5, subpart L, related program regulations, and the model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD). HUD is the federal agency that ensures that the PHA's Housing Choice Voucher (HCV) & Moderate Rehabilitation (Mod Rehab/MR) programs are in compliance with VAWA.

Definitions

- **External emergency transfer** refers to an emergency relocation of a participant(s) to another unit where the participant(s) would be categorized as a new applicant; that is, the participant(s) must undergo an application process in order to reside in the new unit. PHA only provides an external emergency transfer.
- **Safe unit** refers to a unit that the victim of VAWA violence/abuse believes is safe.
- **VAWA violence/abuse** means an incident(s) of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR 5.2003 and "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking" (form HUD-5382)

Eligibility for Emergency Transfers

A participant may seek an emergency transfer to another unit if they or their household member(s) are a victim of VAWA violence/abuse, as outlined in the "Notice of Occupancy Rights Under the Violence Against Women Act," (form HUD-5380). This emergency transfer plan provides further information on emergency transfers, and the PHA must provide a copy if requested. The PHA may ask for submission of a written request for an emergency transfer, such as form HUD-5383, to certify eligibility for the emergency transfer.

A Participant is eligible for an emergency transfer if:

1. The participant (or their household members) is a victim of VAWA violence/abuse;
2. The participant expressly requests the emergency transfer; **AND**
3. **EITHER**
    a. The participant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if they (or their household members) stay in the same dwelling unit; **OR**
    b. If the participant (or their household members) is a victim of sexual assault and reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the participant (or their household members) were to stay in the unit, or the sexual assault occurred on the premises and the participant requested an emergency transfer within 90-calendar-day-period (including holidays and weekend days) of when that assault occurred.

The PHA, in response to an emergency transfer request, should not evaluate whether the participant is in good standing as part of the assessment or provision of an emergency transfer. Whether or not a participant is in good standing does not impact their ability to request an emergency transfer under VAWA.

Emergency Transfer Policies

Protection for Applicants

Applicants who qualify for assistance under WHEDA Housing Choice Voucher (HCV) program cannot be denied admission or assistance because they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protection for Participants

Participants receiving assistance under WHEDA HCV program may not be denied assistance, terminated from participation, or be evicted from rental housing because they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if any participant (or an affiliated individual of a participant) is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, they may not be denied rental assistance or occupancy rights under WHEDA HCV program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

An affiliated individual means a spouse, parent, brother, sister, child, or a person who stands in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in the household.

Removing the Abuser or Perpetrator from the Household
The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or find alternative housing. In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

External transfers:

Moving to Another Unit

Upon participant request, the PHA may permit participant to move to another unit, subject to the availability of other units, and still keep the assistance. In order to approve a request, the PHA may ask participant to provide documentation of request to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If it is a request for emergency transfer, the housing provider may ask participant to submit a written request or fill out form HUD-5383 to certify that they meet the criteria for an emergency transfer under VAWA. The criteria are:

1. You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form or may accept another written or oral request.
3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future. VAWA provisions do not supersede eligibility or other occupancy requirements that may apply under a covered housing program. The PHA may be unable to transfer a participant to a particular unit if the participants cannot establish eligibility for that unit.
4. You are a victim of sexual assault, and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

Emergency Transfer Request Documentation
To request an emergency transfer, the participant shall notify the PHA's contracted agent and submit a written request for a transfer. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. If the PHA does not already have documentation of the occurrence of

domestic violence, dating violence, sexual assault, or stalking, the PHA may ask for this documentation in accordance with 24 CFR 5.2007. Unless the PHA receives documentation that contains conflicting information, as described in 24 CFR 5.2007(b)(2), the PHA cannot require third-party documentation to determine status as a VAWA victim for emergency transfer eligibility.

WRITTEN REQUEST FOR AN EMERGENCY TRANSFER

The participant's written request for an emergency transfer must include either:

1. A statement expressing that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the participant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the participant's request for an emergency transfer.

Form HUD-5383 may be used for making a written request for an emergency transfer.

- The PHA can, but is not required to, ask participant to provide documentation to "certify" that they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day the request is received to provide the documentation.
- If participant fails or refuses to provide one of these documents within the 14 business days, the PHA does not have to provide the protections contained in this notice.
- The PHA may, but does not have to, extend the deadline for the submission of documentation upon request.

The participant can provide one of the following to the PHA as documentation. It is participant's choice which of the following to submit if the PHA asks them to provide documentation that they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to participant by PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for victim's name, the date/time/location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides an option for including the name of the abuser or perpetrator if their name is known and is safe to provide.
- A record of a federal, state, tribal, territorial, or local law enforcement agency, court, or administrative agency that documented the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which victim must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, attorney, medical professional or a mental health professional (collectively, "professional") from whom victim sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The professional selected by victim attests under penalty of perjury that they believe that the incident(s) of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.
- If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that

victims provide third-party documentation within thirty 30 calendar days in order to resolve the conflict.

- Examples of third-party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

- If participant fails or refuses to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide the protections contained in this notice.

Priority for Transfers

Participants who qualify for an emergency transfer under VAWA will be given the following priority over other categories of participants seeking transfers and individuals seeking placement on waiting lists for these types of assistance:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and participant determines that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Participant may also request an emergency transfer under the following programs for which they are required to apply:

- Public housing program
- Project-based Voucher (PBV) assistance in another development not owned by PHA

Confidentiality

If a participant inquiries about or requests any VAWA protections or represents that they or a household member are a victim of VAWA violence/abuse entitled to VAWA protections, PHA must keep any information they provide concerning the VAWA violence/abuse, their request for an emergency transfer, and their (or a household member's) status as a victim strictly confidential. This information should be securely and separately kept from participants' files. All the information provided by or on behalf of the participant(s) to support an emergency transfer request, including information on the Certification (form HUD-5382) and the Emergency Transfer Request (form HUD-5383) (collectively referred to as "Confidential Information") may only be accessed by PHA employees or contractors if explicitly authorized by PHA for reasons that specifically call for those individuals to have access to that information under applicable federal, state, or local law.

Confidential information must not be entered into any shared database or disclosed to any other entity or individual, except if:

- Written permission is provided by the victim in a time-limited release;
- Required for use in an eviction proceeding or hearing regarding termination of assistance; or
- Laws that require the PHA or landlord to release the information.

In addition, HUD's VAWA regulations require emergency transfer plans to provide strict confidentiality measures to ensure that the location of the victim's dwelling unit is never disclosed to the person(s) who committed or threatened to commit the VAWA violence/abuse.

Emergency Transfer Procedure

The PHA cannot guarantee that a transfer request will be approved or specify how long it will take from the time a transfer request is approved until the participants can be placed in a new, safe unit. PHA will, however, act as quickly as possible to assist a participant who qualifies for an emergency transfer. If the PHA identifies an available unit and the participant(s) believes that unit would not be safe, the participant may request a transfer to a different unit. If a unit is available, the transferred participant must agree to abide by the terms and conditions that govern occupancy in the unit to which the participant has been transferred. The PHA may be unable to transfer a participant and their household to a particular unit if the participant/household has not established or cannot establish eligibility for that unit.

If the PHA does not have any safe and available units for which the participant(s) is eligible, the PHA will assist the participant in identifying other covered-housing providers who may have safe and available units to which the participant could move. At the participant's request, the PHA will also assist the participant in contacting local organizations offering assistance to victims of VAWA violence/abuse that are attached to this plan.

Making the Emergency Transfer Plan Available

This plan can be found on the website WHEDA Voucher Administrative Plan and in the Housing Program Briefing packet.

Safety and Security of Participants

When the PHA receives any inquiry or request regarding an emergency transfer, the PHA will encourage the person making the inquiry or request to take all reasonable precautions to be safe, including seeking guidance and assistance from a victim service provider. However, participants are not required to receive guidance or assistance from a victim service provider.

- For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa.
- Call the National Domestic Violence Hotline at 800-799-7233, or a local domestic violence shelter for assistance in creating a safety plan. For persons with hearing impairments, the Hotline can be accessed by calling 800-787-3224 (TTY).
- Participants who have been victims of sexual assault may call the Rape, Abuse, & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE or visit the online Hotline at https://ohl.rainn.org/online/.
- Participants who are or have been victims of stalking may seek help from the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.