

COMPLAINTS, INFORMAL REVIEWS AND INFORMAL HEARINGS

COMPLAINTS

The South Central MN Multi-County H.R.A. will investigate and respond to complaints by participant families, owners, and the general public. The South Central MN Multi-County H.R.A. may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

INFORMAL REVIEW

A. Informal Reviews for Applicants

The South Central MN Multi-County H.R.A. will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the South Central MN Multi-County H.R.A. decision. The notice will state that the applicant may request an informal review within 10 business days of the denial and will describe how to obtain the informal review.

B. When an Informal Review is Not Required

The South Central MN Multi-County H.R.A. will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the South Central MN Multi-County H.R.A. subsidy standards.
2. A South Central MN Multi-County H.R.A. determination not to approve an extension or suspension of a certificate or voucher term.
3. A South Central MN Multi-County H.R.A. determination not to grant approval to lease a unit under the program or to approve a proposed lease.
4. A South Central MN Multi-County H.R.A. determination that a unit selected by the applicant is not in compliance with HQS.
5. A South Central MN Multi-County H.R.A. determination that the unit is not in accordance with HQS because of family size or composition.
6. General policy issues or class grievances.
7. Discretionary administrative determinations by the South Central MN Multi-County H.R.A..

C. Informal Review Process

The South Central MN Multi-County H.R.A. will give an applicant an opportunity for an informal review of the South Central MN Multi-County H.R.A. decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by the South Central MN Multi-County H.R.A. other than the person who made or approved the decision under review or a subordinate of this person.
2. The applicant will be given an opportunity to present written or oral objections to the South Central MN Multi-County H.R.A. decision.

3. The South Central MN Multi-County H.R.A. will notify the applicant of the South Central MN Multi-County H.R.A. decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

D. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority 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. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the South Central MN Multi-County H.R.A. will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

E. Informal Review Procedure for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the South Central MN Multi-County H.R.A. provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

INFORMAL HEARINGS

A. When a Hearing is Required

1. The South Central MN Multi-County H.R.A. will give a participant family an opportunity for an informal hearing to consider whether the following South Central MN Multi-County H.R.A. decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and South Central MN Multi-County H.R.A. policies:
 - a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
 - b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the South Central MN Multi-County H.R.A. utility allowance schedule.
 - c. A determination of the family unit size under the South Central MN Multi-County H.R.A. subsidy standards.
 - d. A determination that a Certificate Program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the South Central MN Multi-County H.R.A. subsidy standards, or the South Central MN Multi-County H.R.A. determination to deny the family's request for an exception from the standards.
 - e. A determination to terminate assistance for a participant family because of the family's action or failure to act.
 - f. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the South Central MN Multi-County H.R.A. policy and HUD rules.
2. In cases described in paragraphs 16.3(A)(1)(d), (e), and (f), of this Section, the South Central MN Multi-County H.R.A. will give the opportunity for an informal hearing before the South Central MN Multi-County H.R.A. terminates housing assistance payments for the family under an outstanding HAP contract.

B. When a Hearing is not Required

The South Central MN Multi-County H.R.A. will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by the South Central MN Multi-County H.R.A..
2. General policy issues or class grievances.

3. Establishment of the South Central MN Multi-County H.R.A. schedule of utility allowances for families in the program.
4. A South Central MN Multi-County H.R.A. determination not to approve an extension or suspension of a certificate or voucher term.
5. A South Central MN Multi-County H.R.A. determination not to approve a unit or lease.
6. A South Central MN Multi-County H.R.A. determination that an assisted unit is not in compliance with HQS. (However, the South Central MN Multi-County H.R.A. will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
7. A South Central MN Multi-County H.R.A. determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the South Central MN Multi-County H.R.A. to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 16.3(A)(1)(a), (b), and (c), of this Section, the South Central MN Multi-County H.R.A. will notify the family that the family may ask for an explanation of the basis of the South Central MN Multi-County H.R.A.'s determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraphs 16.3(A)(1)(d), (e), and (f), of this Section, the South Central MN Multi-County H.R.A. will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:
 - a. Contain a brief statement of the reasons for the decision; and
 - b. State this if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.

D. Hearing Procedures

The South Central MN Multi-County H.R.A. and participants will adhere to the following procedures:

1. Discovery

- a. The family will be given the opportunity to examine before the hearing any South Central MN Multi-County H.R.A. documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the South Central MN Multi-County H.R.A. does not make the document(s) available for examination on request of the family, the South Central MN Multi-County H.R.A. may not rely on the document at the hearing.

- b. The South Central MN Multi-County H.R.A. will be given the opportunity to examine, at the South Central MN Multi-County H.R.A.'s offices before the hearing, any family documents that are directly relevant to the hearing. The South Central MN Multi-County H.R.A. will be allowed to copy any such document at the South Central MN Multi-County H.R.A.'s expense. If the family does not make the document(s) available for examination on request of the South Central MN Multi-County H.R.A., the family may not rely on the document at the hearing.

Note: The term **document** includes records and regulations.

2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by the South Central MN Multi-County H.R.A., other than a person who made or approved the decision under review or a subordinate of this person.
- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the South Central MN Multi-County H.R.A. hearing procedures.

4. Evidence

The South Central MN Multi-County H.R.A. and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 14 calendar days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

6. Effect of the Decision

The South Central MN Multi-County H.R.A. is not bound by a hearing decision:

- a. Concerning a matter for which the South Central MN Multi-County H.R.A. is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the South Central MN Multi-County H.R.A. hearing procedures.
- b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
- c. If the South Central MN Multi-County H.R.A. determines that it is not bound by a hearing decision, the South Central MN Multi-County H.R.A. will notify the family within 14 calendar days of the determination, and of the reasons for the determination.

E. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

If the family is moving to a new rental unit, the family will not be eligible for a new voucher for continued assistance until a decision is rendered from the Informal Hearing Process.

The Housing Authority 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. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. **In determining whether to terminate assistance for these reasons the South Central MN Multi-County H.R.A. will consider evidence of whether the household member:**

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

F. Informal Hearing Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The participant family may request that the South Central MN Multi-County H.R.A. provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision.