

GOVERNMENT PAYBACK POLICY (Overpaid Rental Assistance) HUD and USDA-RD-RD Only

When the Property Manager learns that a resident's household has experienced **unreported** increases in income and/or changes in household composition through verifications received during annual recertification, EIV or during an Interim or Unscheduled period, the Resident will be notified in writing. HUD: TC-26h "Interim Adjustment Notice"; or, USDA-RD: TC-27r "Recertification Adjustment Notice."

It may be necessary to do an Interim and an Annual on the same voucher month for HUD; or, an Unscheduled for the USDA-RD monthly Project Worksheet. In addition, if the resident doesn't respond, these Notices give Management legal recourse to raise the household to market or note rate rent pursue eviction, etc.

A separate file will be set up and maintained throughout the course of the investigation whether or not the Resident cooperates with the process. All appropriate verifications, Notices, and signed documents will be included; this applies to correspondence from the resident, as well.

Resident Responds:

When the resident responds, a meeting will be set up to allow him/her to review the documentation that has caused Management to propose this action, and, to give the resident an opportunity to correct any incorrect information. Should the Property Manager determine that no violation has been committed the file should be closed. It will not be necessary to pursue a payback of overpaid rental assistance any further. The obsolete information will be placed in the household's "History File".

If it is determined that there should be a "payback" of rental assistance, the Property Manager will proceed with the payback calculation. Property Managers should complete the appropriate RECOUPMENT WORKSHEET(S): TC-43hr for HUD Section 8; or USDA-RD rental assistance, and basic to rate tenants); or TC-44h for HUD 236 tenants. This information and the resident file will be forwarded to the Compliance Department for "final" review and approval.

Once Compliance has approved the recoupment calculations and returned the file to the Property Manager, the resident will be sent form TC-29hr "Notice of Overpaid Assistance". The resident will come to the Management office to complete a "Repayment Agreement (form TC-30hr "Repayment Agreement". It must be stipulated that that this retroactive rent payment is **in "addition" to the current rent** and will be payable to the Owner/Agent.

Relevant Lease or Rental Agreement clauses will be cited as well, to stipulate that the resident is in non-compliance.

The resident can agree to repay in a lump sum payment within 30 days of the signature date of the Agreement; or, pay a lump sum when the Repayment Agreement is signed and the remainder/balance as monthly payments until paid in full. NOTE: There is “no” minimum amount that the resident must pay. The total the resident pays for both rent and the Repayment Agreement, should not exceed 40% of the resident’s monthly adjusted income.

If the household’s income goes up or down by \$ 200 or more per month for HUD, or \$ 100 or more per month for USDA-RD, the Repayment Agreement terms can be renegotiated.

The Compliance and Accounting Departments will receive a copy of the finalized Repayment Agreement and any follow up or renegotiated Agreements. These repayments will be tracked and reported as required by HUD or USDA-RD.

During Management Owner Reviews by state and federal agencies the site will be prepared to produce records of TRACS or MINC transmissions, a copy of the Repayment Agreement(s), and any documentation of the repayment amounts. (Reference: Instructions in the third paragraph of this Policy.)

Late and missed payments constitute default of the Agreement and Lease or Rental Agreement non-compliance. This may result in termination of assistance and/or eviction. The Resident may also be required to repay the property due to a Civil action taken by the Owner/Agent, or, Court action as a result of an OIG audit.

Resident Does “Not” Respond:

If the resident does not respond to the request, a follow up notice must be sent: HUD sites TC-28h “Termination of Assistance” notice; USDA-RD sites TC-27r(2) “Termination of Assistance” notice. This gives the resident an additional 10 days to respond. If the resident still does not respond the Lease or Rental Agreement (that has been cited on the notice) gives Management the right to raise the rent to Market or Note rate and/or to pursue eviction, etc.

If Management and the resident cannot agree on terms, the HUD resident will be advised to consult with a HUD-approved local Housing Counseling Agency. USDA-RD residents will follow the USDA-RD Grievance Procedures posted in the Management Office.

Management Error:

In cases of Management error, the resident must be “made whole”. Owner/Owner’s Agent must process appropriate certifications and reimburse the resident if due to Management error (resident did not get enough rental assistance).