

Draft Fiscal Year 2021 5-Year PHA Plan and Housing Choice Voucher Administrative Plan

Public Comments and Agency Responses

The Montana Department of Commerce (MDOC) would like to thank those agencies and individuals that provided comments. Below are the public comments and agency responses.

Human Resource Development Council 4 Client Comments

Comment #1:

Draft FY 2022 HCV Admin Plan seemed ok and agree with the policies. She stated she “is so fortunate for all the program has done” for her living situation.

Response to Comment #1:

We appreciate the feedback on the usefulness of the program.

Comment #2:

Client states he would like to see more HCV vouchers allocated to the Hill, Blaine, Liberty County area, more subsidized units (project based subsidy). And lastly, he would like to see a change from 30% to 25%.

Response to Comment #2:

HCV vouchers are distributed to eleven agencies across the state. Each agency covers multiple counties. Vouchers are allocated based on population and utilization. If a contracted Field Agency does not meet their 95% utilization rate, as identified in their contracts, for 60 days in a row, then the voucher allocation can be redistributed to other Field Agencies that are demonstrating the need and exceeding the required utilization rate.

MDOC is working to create an application for Project-Based vouchers to help increase the affordable housing inventory across Montana.

If the comment is referencing reducing the percentage each family’ contributes to the rent from 30% to 25%, this is a HUD regulation. The Total Tenant Payment (TTP) formula is established by HUD in 24 CFR 5.628. This requires a family to contribute the greater of 30% of the family’s monthly adjusted income, 10% of the family’s monthly gross income, the welfare rent, or the minimum rent established by the PHA. MDOC is unable to revise or reduce this contribution percentage.

Opportunities Inc., Mini-Board
Kristina Johnson

Comment #3:

I had the opportunity to review the MDOC Admin Plan proposed changes today. The revisions make sense to me and are needed and fair and clear.

I had the change to give comments, concerns, and ask questions. I appreciate the time that goes into these types of revisions and how they look out for the tenant.

I do not have any questions or concern regarding the proposed changes/additions. Thank you for letting me be a part of this process.

Response to Comment #3:

Thank you for your comment.

Opportunities Inc., Mini-Board
DiAnn Rogers, Advance Property Management

Comment #4:

I, DiAnn Rogers (Advance Property Management) met with Cody Wright (Housing Director) on April 1, 2021 and recommend no changes to the Housing Choice Voucher Administrative Plan.

Response to Comment #4:

Thank you for your comment.

Opportunities Inc., Mini-Board
Tanya Mortenson, Tungsten Properties, LLC

Comment #5:

On March 18, 2021 Housing Manager, Cody Wright and I met to go over the Administrative Housing Choice Voucher Plan and the summary of draft changes to the fiscal year 2022. I appreciate the opportunity to review and discuss this with Opportunities, Inc.

As a property Manager I find Chapter 3 – Eligibility, added language alarming. It sounds as though the admin plan is suggesting a violent offender could easily get a voucher. I find one of the perks to the relationship with a Housing Authority and Property Manager is knowing the tenants with vouchers are vetted prior to my background check. Making all other tenants aware of a violent offender lease up in the same building is a property manager’s responsibility. I always found it to be an added feature of the Housing Choice Voucher knowing it had been pre-vetted.

I found the changes in Chapter 16 – Program Administration 16.III.C Informal Hearings for a participant’s remote hearing to be a great savings of resources to voucher holder and MDOC.

Response to Comment #5:

MDOC's policy regarding review and denial of violent offenders has not changed. MDOC's policy states:

"If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three years, the family will be denied assistance:

- ...Violent criminal activity, defined by HUD as any criminal activity that has as one of the its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100]..." (Chapter 3, page 20).

**North Central Independent Living Services, Inc.
Shyla Patera, Independent Living Specialist**

Comment #6:

My name is Shyla Patera. I am submitting these comments on the Housing Voucher administrative manual. I am an Independent Living Specialist employed by North Central Independent Living Services, Inc. in Black Eagle, Montana. As a long-time housing advocate, I submit these comments on behalf of North Central Independent Living Services, Inc. Many of our staff have often received calls on accessible and/or reasonable housing modifications or request for not only the physical environment built but also policy requests. NCILS staff asks that you speak with HUD regarding parenting custody and custodial arrangements. If a couple or custodial relative can show a reasonable amount of time that they are to be caring for a minor child in a unit, from the placement or familial reunion occurs, the tenant of the unit shall be given sufficient time to relocate to another unit. NCILS feels that this provision should be outlined in leasing agreements and a person with a disability should be able to access an accessible unit if needed, warranted, and documentation via medical or a social work professional can be given to landlords, housing authorities, and/or property management companies.

NCILS staff has also dealt with the loss of vouchers due to medical or circumstances beyond a tenant's control. HUD has deemed this as an unoccupied unit after 180 days. NCILS hopes that Montana can work with HUD to rectify or HUD to clarify guidance on this issue if a tenant who is an HCV voucher user can show upon discharge that they are going to be returning to that apartment or housing dwelling and needing the financial support and assistance that a Housing Choice Voucher offers upon discharge from a hospital or rehabilitation facility. To that end, Montana Housing must offer a tenant or a tenant's representative a reasonable timeframe and chance to appeal the loss of a voucher as well. There must be consistent timelines outlined to prospective and current tenants that should follow Montana code and law. Also, if a voucher is lost and eligibility to all HUD services is lost, remediation plans should be offered to tenants, and families so that many can access HUD services and units in the future.

NCILS reminds you and all prospective tenants to effectively outline needs and financial means on applications. NCILS would hope that landlords would offer and accept HCV vouchers on behalf of

prospective clients and tenants. We would hope that Montana Housing and others would work with landlords and communities to not only offer HCV vouchers to the homeless, youth, and disability communities, but also work with the unbanked or under banked citizens in our Montana communities to increase Housing and HCV opportunities in our state.

COVID has altered how many community agencies, property management companies, landlords, and tenants do business in Montana. We hope that there can be ways to remotely certify eligibility for HUD services and HCV vouchers and that those programs will be accessible to all Montanans with a disability and remain in place beyond the COVID-19 pandemic.

NCILS is excited by the opportunities that Mainstream vouchers, the Housing Trust Fund, and BRAD programs offer in Montana. However, we know that these programs are offered and evaluated on how they help communities and neighborhoods in Montana. We hope that Montana Housing can work with advocates and citizens to ensure that these programs are filling housing gaps and meeting the many needs of Montanans with disabilities in low-income communities. Montana needs inclusive, diverse, housing options and neighborhoods. To that end, NCILS would be remiss if we did not encourage Montana Housing and the Community Development Division to build more accessible, visitable, universal designed housing inventory in Montana.

Response to Comment #6:

HUD defines a dependent as “A member of the family (except for foster children and foster adults) other than the family head, spouse, co-head, and live-in aides, who is under 18 years of age, or is a person with a disability, or is a full-time student” [24 CFR 5.603(b)]. HUD allows PHAs to create policies that outline the specifics as it relates to joint custody of children, children temporarily away from a unit, and foster children. The MDOC policy for joint custody of dependents states:

“Dependents that are subject to a joint custody arrangement will be considered a member of the family. Please note that a child cannot be assisted in more than one household without a waiver from HUD. When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim dependents, MDOC will make the determination based on available documents such as court orders, an IRS return showing which family has claimed the child for income tax purposes, or school records” (Admin Plan Chapter 3, pages 4-5).

If a child is removed from a unit temporarily, it is the responsibility of the family to notify MDOC within 30 days of the removal. In the case of children being placed in foster care “MDOC will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. MDOC will review the case annually” (Admin Plan Chapter 3, pages 7-8). For dependents that turn 18, they will need to sign declarations and provide other relevant documentation as required by the HCV program. If the newly adult household

member does not provide the required documentation within in the required timeframe, then they will be removed from the household for failure to provide required documents/information.

During those instances where a dependent family member is being removed from the household, MDOC provides at least 30 days' notice to the family. Families that experience family composition changes will then have their voucher subsidy reviewed at the time of the change to ensure that they are being assisted with the correct subsidy amounts. Additionally, families whose voucher size is reduced because of a family composition change will be given the opportunity to be issued a voucher to move or stay in the unit. The current voucher issuance time is 60 days, with the possibility of an extension, if the family can demonstrate that their need for more time was because of circumstances outside of their control or because of a need for a reasonable accommodation.

Regarding individuals with disabilities and reasonable accommodations, MDOC reviews all reasonable accommodation requests in a timely manner. Requests can be made both verbally and written. While MDOC does not require specific forms to submit a reasonable accommodation request, they can be provided to program applicants and participants upon request. Program applicants and participants are to provide their requests for MDOC to their local Field Agency or to MDOC directly for consideration. MDOC will review and make a decision within 14 calendar days of a complete submission for a reasonable accommodation request.

24 CFR 982.312(a) states "The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason." Unfortunately, MDOC does not have the discretion to allow for a program participant/family to be absent from their assisted unit for more than 180 days. When a family has exceeded the 180 days absent from their unit timeframe, MDOC will provide 30 days' notice to the family of the possibility of their assistance termination, allowing the family to provide the necessary appeal within 30 days. If the family does not respond within that timeframe they will be terminated from the program. If a family has been terminated from the program for being absent from their unit for more than 180 consecutive-days, they can reapply to the Waiting List in the jurisdiction of their choice. In fiscal year 2021, MDOC received an allocation of Mainstream vouchers from HUD. These vouchers have a preference that allows for applicants meeting specific criteria to be provided the opportunity for a mainstream voucher ahead of those applicants that do not meet the required criteria. MDOC currently has 78 Mainstream vouchers.

MDOC and its contract Field Agencies work to build relationships with landlords, owners, and property managers across the state. Together we strive to attract and retain landlords, property managers, and owners to work with the HCV program to accept vouchers and HCV program participants. Additionally, MDOC and the Field Agencies work to advertise the HCV program across Montana Communities. We make new funding sources known to our partner organizations as they become available. MDOC also researches and applies for new funding opportunities that are applicable to the needs of Montana and its citizens that will increase housing opportunities

across the state. Additionally, MDOC is in the process of establishing an application and program to project-base HCV vouchers to increase the affordable housing inventory and voucher utilization in Montana. This will be a competitive process where housing properties can apply to project-based up to 25 units or 25% of their total units which will increase the voucher utilization and will also help lower-income households have access to units which they may not have had previously.

As a result of the COVID-19 pandemic, HUD allowed PHAs the opportunity to adopt waivers which increased flexibility in how the HCV program can be conducted its regular business. Of the waivers offered, MDOC adopted 20 waivers to accommodate the needs to continue doing the required work, but allow for alternative requirements. MDOC will review the availability of making any of these waiver options available permanently if that becomes an option from HUD. Reasonable accommodations are available for families and persons with disabilities and are reviewed upon request.

MDOC is working with its contracted Field Agencies and other partners to advertise Mainstream vouchers to increase the awareness of the program's availability. MDOC will continue to advertise the Mainstream program. Additionally, MDOC has placed the Mainstream preference information on the HCV application so all new applicants have the chance to determine if they might qualify for the preference at the time of application. All those that select their eligibility for the preference are reviewed according to the day of application and the eligibility is confirmed through a verification process.

Human Resource Development Council District 7 Mini-Board Participant

Comment #7:

With arrest records being seldomly considered unless a conviction is shown, do we need to change the way we conduct screening? We appreciate this change as it will hopefully lead to less applicants being denied.

Response to Comment #7:

MDOC has not been using arrest records as the sole reason to deny assistance to an individual or family. MDOC considers a preponderance of evidence when deciding to deny an individual or family based on their criminal record. Field Agents do not need to change the way in which they are screening HCV applicants for eligibility.

Comment #8:

All of the numerical 3's have been changed to the three except for one. This should be changed to "three" as well.

Response to Comment #8:

Thank you, this has been corrected.

Comment #9:

What browsers does the website work with as much of the time the browser states the website is unsafe? Has the website become more user friendly? Potential tenant that have tried to apply on their mobile devices and report that the applications are not being submitted?

Response to Comment #9:

MDOC's website works on all browsers and is secure (requires registration and login to utilize). This same website is not currently mobile friendly. MDOC has requested a mobile friendly version of the application, but a timeframe for the development is unavailable.

Comment #10:

The Billings-In and Billings-Out distinctions cause some confusion for applicants in our area. Would it be possible to update the application to be more explicit on what areas the applicants are applying to?

Response to Comment #10:

The following screenshots were taken from the Housing Choice Voucher page on Montana Housing's website.



Serving: Big Horn, Carbon, Stillwater, and Sweet Grass Counties; Yellowstone County, excluding the City of Billings and the area within ten (10) miles from the territorial boundaries of Billings.



Serving: City limits of Billings and ten miles beyond the City Limits.

Additionally, the following image is from the most recent version of the Housing Choice Voucher Program Application.

Regional Offices – Choose only one

- Region 1 – Action for Eastern Montana
- Region 2 – HRDC 4, Havre
- Region 4 – HRDC 6, Lewistown
- Region 5 – HRDC 7, Billings
- Region 6 – HRDC 9, Bozeman
- Region 7 – Community Action Partnership, Kalispell
- Region 8 – HRC XI, Missoula
- Region 9 – Action, Inc., Butte
- Region 10 – Helena Housing Authority
- Region 11 – Housing Authority of Billings
- Region 12 – Opportunities, Inc., Great Falls

The Billings-Out and Billings-In distinctions are solely used in the software utilized by the HCV program for management of the program. With Homefront: Partners for a Better Billings (previously Housing Authority of Billings) recently changing their name, MDOC will consider updating the naming conventions in the management software.

Comment #11:

When entering the program when does EID become effective with the new rule? Is it just at the annual or can that program take affect at interims as well?

Response to Comment #11:

The Earned Income Disallowance (EID) applies only to individuals in families already participating in the HCV program (not at initial examination (move-in)). EID can be applied at an interim if one of following conditions have been met:

- A family member, who was previously unemployed for one or more years prior to employment, becomes employed.
- A family member, who is a person with a disability, increased their earning during participant in an economic self-sufficiency or job-training program. Or,
- A family member, who is a person with a disability, obtains new employment or increased earnings and has received benefits or services under Temporary Assistance for Needy Families or any other state program funded under Part A of Title IV of the Social Security Act within the past six months.

Comment #12:

When we request additional documents from the tenant or a 3rd party when we need more information to be able to accurately calculate their income, what is the time period we are providing them to get that back to us? Is it still the standard 14 days or does that change based upon who it is requested from?

Response to Comment #12:

MDOC has not established a set timeframe for which Field Agents (FAs) will request the return of third-party verifications/documents from the tenant. FAs should use their discretion to ask for the return of the necessary documents to meet the required deadlines for the HCV program.

Comment #13:

When using the streamlining process do, we need to verify all the other income outside of what we are streamlining, or do we just use EIV to verify all of the income information?

Response to Comment #13:

MDOC has not elected to streamline the annual reexamination process for fixed-income sources. FAs are required to review EIV at annual reexaminations and interim reexaminations (if an income discrepancy is noted in EIV).

Comment #14:

During the re-examination process are the use of systems such as Con Web allowed to be used in the determination of termination assistance, if items pertaining to illegal drugs or other illegal activities have been committed while the client is in the program?

Response to Comment #14:

Con Web is a State of Montana resource, a non-federal resource, and therefore is not subject to this rule.

Comment #15:

What percentage is MDOC using for the payment standards if they can use between 90% to 110% of FMR?

Response to Comment #15:

For fiscal year 2021, MDOC has used 110% of the FMR for payment standards.

Comment #16:

What is SAFMR?

Response to Comment #16:

Small Area Fair Market Rents (SAFMRs) are fair market rents calculated for zip codes within metropolitan areas as an exception payment standard. PHAs may establish this exception payment standard for a HUD-identified zip code area. MDOC has not elected to utilize the SAFMRs at this time.

Comment #17:

What happens if the tenant does not have the ability to attend a fair hearing in person or remotely due to circumstances out of their control? How else can those be done?

Response to Comment #17:

MDOC policy states "If the family does not appear within 10 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact MDOC within 24 hours of the scheduled hearing date, excluding weekend and holidays. MDOC will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, MDOC's decision will stand" (Chapter 16 page 11).

At this time, a remote hearing or attending in person are the only two options for an informal hearing.

Comment #18:

There should be information to give to clients who are entering into a repayment plan, and where/who the money should be sent to at MDOC.

Response to Comment #18:

Program participants are provided detailed information regarding the repayment plan process prior to entering into an agreement with MDOC. The agreement details the monthly payment required of the participant and provides the information where the payments must be sent. Additionally, those that have a payment plan with MDOC will receive a copy of the agreement for their records.

Comment #19:

Where are the Project Based Vouchers being done at? Will it be the responsibility of the Field Agencies to oversee those and work with a Contract Manager or are those being taken care of by MDOC depending on location of the site?

Response to Comment #19:

MDOC has only one project-based voucher property at this time. PBVs will be awarded on a case-by-case basis, through an application process. There is no geographical preference for PBVs. Field Agencies will work with Contract Managers for all PBVs, similarly how they do with Moderate Rehab properties.

**District 6 Human Resource Development Council
Mini-Board Participant**

Comment #20

We were wondering if the interim rule still applies to income increases?

Response to Comment #20

MDOC's policy states "Families are required to report all increases in income, including new employment benefits, pensions etc., in writing within 30 days of the family's notification of the change, by submitting the information either electronically or by completing a Tenant Income Form (TIF) and submitting to MDOC."

MDOC procedures for FAs states that participants must report increases in their income, but the FA is not required to submit the file for an interim reexamination. The FA must upload all documentation of the income increase and put a note in the file detailing the increase in income. At the next annual reexamination, the FA will collect the necessary income documentation and a new Payment Determination will be issued after calculating the new rental assistance.