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Resolution to Amend the Administrative Plan Regarding Chapter 16 Violence Against Women Act (VAWA) & Other Emergency Transfer Requests

The Ann Arbor Housing Commission's Housing Choice Voucher Administrative Plan details its policies and procedures for the management of its Housing Choice Voucher (HCV) Program. The AAHC periodically revises the Plan to reflect changes in HUD regulations and changes in AAHC policies.

The AAHC is proposing a change to the Administrative Plan to clarify the policy and procedure for VAWA related and Non-VAWA related emergency transfer requests as described in Chapter 16 - Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. Currently, the AAHC policy mimics the format and content of the HUD Notice PIH-2017-08: Violence Against Women Reauthorization Act of 2013 Guidance document. Staff recommend replacing the current section of the chapter with the proposed changes below.

VAWA was created for specific situations that does not include all situations where a person can feel an immediate threat and unsafe in their home where a move to another location can potentially remove them directly from harm's way. Staff recommend adding language to address emergency transfer requests for residents who do not meet the eligibility definition of VAWA, however, they have experienced violent activity or behavior that urgently and immediately threatens their health and safety. Staff also recommend adding language to clarify what the procedure is when a person lives in an AAHC unit and there are no comparable AAHC-owned housing units unavailable or there is not a tenant-based voucher available.

Proposed New Section to Replace the Old Section

16-IX.G. EMERGENCY TRANSFER POLICIES AND THE HOUSING CHOICE VOUCHER AND PROJECT BASED VOUCHER PROGRAM

PHA Policy

PHAs Emergency Transfer Plan for participants with tenant-based assistance and project-based voucher assistance is as follows:

- The PHA will expedite administrative processes for participants who wish to move with their tenant-based assistance, including when the victim and perpetrator are members of the same household when a tenant is eligible for an emergency transfer under Chapter 10: Moving with Continued Assistance.

When a victim is eligible for an emergency transfer, the PHA will refer to Chapter 3: **Family Breakup and Remaining Member of Tenant Family**. The family will be eligible to move with a tenant-based voucher according to Chapter 10: Moves with Continued Assistance and victims will receive preference in other housing programs administered by the PHA.

The PHA should refer the victim to other housing opportunities in the community as described in the PHA's Emergency Transfer Plan if:

- The PHA does not offer other assistance to the victim (because the victim has not lived in the PBV unit for one year);
- Tenant-based assistance is not immediately available; or
- Another safe PBV unit is not immediately available.

VAWA Emergency Transfer Eligibility

PHA Policy

To qualify for an emergency transfer as a VAWA victim: The tenant, an authorized household member, or an affiliated individual must qualify as a victim under one of the following VAWA categories:

- **Domestic Violence:** Victim of a felony or misdemeanor crime of violence committed by a family member, persons who have a child in common, current or former spouse or intimate partner, a person situated to a spouse under Michigan domestic or family violence laws, or by a person against a victim protected under Michigan domestic or family violence laws.
- **Dating Violence:** Victim of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is to be determined based on the length and type of relationship and frequency of interaction between persons involved in the relationship.
- **Sexual Assault:** Victim of any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent.
- **Stalking:** Victim of a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her individual safety or the safety of others or suffer substantial emotional distress.
- **Affiliated individual** is defined as a spouse, parent, sibling, child, or a person to whom the tenant stands in the place of a parent or guardian, i.e., a person in the tenant's care, custody, or control, or any individual tenant, or lawful occupancy living in the household of that individual.

A tenant, authorized household member, or affiliated individual, who meets any of the above definitions must also reasonably believe that he or she is threatened with imminent harm from further violence if he or she remains in his or her current apartment. This means the victim has reason to fear that if the victim does not receive a transfer the victim would suffer violence in the very near future.

If a resident requests an emergency transfer based on an incident involving an individual who is not a tenant or authorized household member, staff will review the request to determine whether the individual qualifies as an “affiliated individual” and whether the tenant qualifies for emergency transfer under VAWA.

Victims of sexual assault may also qualify if the sexual assault occurred on the premises of the property from which the tenant is seeking to transfer, and that assault happened within the 90-calendar-day period before submission of a transfer request form.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Documentation Required for VAWA Emergency Transfer

The following are accepted for consideration of a VAWA Emergency Transfer request:

- HUD Form 5383: Request for Emergency Transfer; or
- HUD Form 5382: Victim Certification; or
- A document signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003; or
- A record of a Federal, State, tribal, territorial, or local law enforcement agency (may include a police report), court, or administrative agency

If conflicting information is submitted, the PHA may also require additional recent evidence (e.g. a police report within the past 90 days, a current Order of Protection, etc.) to directly support the VAWA case.

Residents seeking an emergency transfer as covered by VAWA may submit self-certification; such as form HUD-5382, of their eligibility. Once VAWA eligibility is certified, the resident may submit a request for emergency transfer using form HUD 5383.

Administrative Transfer Eligibility (Non-VAWA Related)

Residents who have experienced violent activity or behavior that threaten their health and safety may be offered an opportunity to transfer to another unit or with a tenant-based voucher. Residents who are in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm may request an Administrative Transfer. Administrative transfers are not for individuals eligible under the Violence Against Women Act (VAWA).

PHA Policy

To qualify for an Administrative Transfer as a victim of violence that is non-VAWA related the following conditions must be met:

- Documented life-threatening crimes of non-random (targeted) violence that put a resident’s life in danger.
- Crime occurred on PHA property.

Required documentation for an Administrative Transfer

The following pieces of documentation are required for consideration of an Administrative Transfer request:

An Administrative Transfer Request Form completed by the resident; and
One of the following:

- A police report
- An Order of Protection
- Other documentation deemed sufficient by PHA staff
- Medical Records (in extreme cases where no other documentation is available)

Any evidence should be recent (e.g. a police report within the past 90 days, a current Order of Protection, etc.) and directly support the victim's case. Supporting documentation are due within 14 business days of case opening.

Provided that the head of household is not a perpetrator, the head of household's involvement is required to pursue a transfer. In situations where the head of household is a perpetrator, the victim may seek relocation confidentially. If an administrative transfer or emergency transfer is granted and facilitated on behalf of the victim through a bifurcation process, the PHA will pursue eviction of the perpetrator.

Priorities Amongst Types of Transfers

Emergency transfer requests under VAWA take top priority in the AAHC's consideration of all transfer requests from tenants receiving tenant-based or project-based assistance.

Non-Eligible Immigrant Status

Under VAWA, if the perpetrator is the sole voucher holder and the victim is an authorized household member without eligible immigration status, he/she can self-petition for eligible status if he/she is the spouse, parent or child of an abusive U.S. citizen or permanent resident and has been subjected to a form of violence identified in VAWA.

VASH Vouchers

If the VASH voucher holder is the perpetrator of an act of violence identified in VAWA against an authorized tenant in the same unit, and the VASH voucher is terminated due to the perpetrator's VAWA acts, the victim should be given a regular HCV voucher if one is available, and the perpetrator's VASH voucher should be used to assist another eligible veteran family. If a regular HCV voucher is not available for the victim, the PHA must terminate the perpetrator's assistance and allow the victim to continue to utilize the VASH voucher. If the victim leaves the Housing Choice Voucher program, the VASH voucher must be issued to another eligible veteran family upon turnover.

Confidentiality

AAHC will keep confidential any information provided to it through an emergency transfer request unless (1) the victim provides written permission to release information, (2) disclosure of information is required by law, or (3) disclosure is required for use in termination processes

Processing Transfers

Once an administrative transfer or VAWA emergency transfer is approved, the PHA will identify an available unit that meets a household's needs. Household size (number of bedrooms needed), areas identified as unsafe based on violence reported in request, proximity to employment/education, and resident preferences will be taken into consideration when practical. Should a same bedroom size unit not be available, the resident will be offered a tenant-based voucher.

PHA Policy

If the victim family is eligible for a VAWA emergency transfer or an administrative transfer, as determined by the PHA, the PHA will:

- Offer to transfer the family to the next available unit that is adequate to the family's household size; and/or
- Offer the family to relocate with a tenant-based voucher

All unit offers will be outside of a resident's current development or area. Once a unit is identified, the resident will have 72 hours to accept or decline the offered unit. PHA staff will review the moving process with the resident (e.g. completion of forms, utilities, key drop-off/pick-up, etc.) at the time the unit is accepted.

The PHA will provide two units, if two are available; for a resident to choose. If a resident chooses to decline a unit, they will be asked to confirm their decision in writing, and they are encouraged to continue to work with their Service Provider on safety and support.

If a participant reasonably believes a proposed transfer to another unit would not be safe, the participant may request a voucher to find one that is safe or to port out of the PHAs jurisdiction. If a unit is available, the transferred participant must agree to abide by the terms and conditions of the lease. The PHA may be unable to approve tenancy transfer for a particular unit (tax credit or tenant-based voucher) if the participant has not or cannot establish eligibility for that unit.

Denying Transfers

For those participants who are not eligible for a VAWA emergency transfer or administrative transfer, their request will be denied. Residents who decline the relocation offer will have their transfer request closed. Residents may grieve the decision to close their case and be given the opportunity to submit additional information related to the reason the unit was declined.

A letter of denial will be given to the resident that will include a summary of the documentation received and the reason(s) that the evidence did not support the request. There will also be an opportunity to submit additional information or grieve the decision through the PHAs Grievance Process.

Grievance Process for Transfer Denials

A resident may submit a request to appeal the PHA decision, with any additional supporting documentation, within the 30 days following the denial.

This policy is intended to comply with all applicable statutes and regulations. If this policy conflicts with a federal requirement, the federal requirement will supersede this policy.

Prepared by: Weneshia Brand, Director of Operations

Approved by: Jennifer Hall, Executive Director

WHEREAS, the Ann Arbor Housing Commission's Housing Choice Voucher Administrative Plan details its policies and procedures for the management of its Housing Choice Voucher (HCV) Program; and

WHEREAS, currently, the Administrative Plan Chapter 16 Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality, is a copy of the HUD PIH-2017-08:

Violence Against Women Reauthorization Act of 2013 Guidance document, and

WHEREAS, AAHC seeks to comply with HUD's mandate to adopt a policy that describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims and maintaining the confidentiality of information; and

WHEREAS, staff recommend replacing the current section of the chapter with language that clearly describes the policy and procedure for staff to provide protections for victims of domestic violence, dating violence, sexual assault, and stalking; and

WHEREAS, staff recommend adding language that describes the policy and procedure to provide protection to residents who do not meet the eligibility criteria of VAWA, however experience violent activity or behavior that threatens their health and safety;

RESOLVED, that the Board of the Ann Arbor Housing Commission approve replacing the section language related to the VAWA as described in the memorandum above, to the Administrative Plan to take effect on July 20, 2022.