

Chapter 3

D. Request For A Reasonable Accommodation By Public Housing Residents And Applicants

Requested accommodations will not be approved if one of the following would occur as a result:

1. A violation of State Law and/or federal law;
2. A fundamental alteration in the nature of the RRHA public housing program;
3. An undue financial and administrative burden on RRHA,
4. A structurally unfeasible alteration; or
5. An alteration requiring the removal or alteration of a load-bearing structural member.

All requests for a reasonable accommodation shall be reduced to writing on the reasonable accommodation form by the resident or potential resident, RRHA staff, any person identified by the individual. This form includes various forms of reasonable accommodations as well as the general principles of reasonable accommodation.

The Property Manager may request documentation of the need for a Reasonable Accommodation as identified on the Request for Reasonable Accommodation form as well as suggested reasonable accommodations to assist the resident in the opportunity to fully enjoy the dwelling unit or non-housing program.

Although RRHA may not ordinarily inquire as to the nature and severity of an individual's disability, in response to a request for a reasonable accommodation, RRHA may request reliable disability-related information. This request must be limited to information that (1) is necessary to verify that the person meets the Fair Housing Act's definition of disability, (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.

Information verifying that the person meets the Fair Housing Act's definition of disability can usually be provided by the individual himself or herself (*e.g.*, proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits or a credible statement by the individual). A reliable third-party who knows about the individual's disability may also provide verification of a disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

The following may provide verification of a resident's disability and the need for the requested accommodation:

1. Physician
2. Licensed health professional

3. Professional representing a social service agency or
4. Disability agency or clinic or
5. Other knowledgeable professional

Once RRHA has established that a person meets the Act's definition of disability, the RRHA's request for documentation should seek only the information that is necessary to evaluate if the reasonable accommodation is needed because of a disability. Such information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law. RRHA is still not permitted to inquire about the nature or extent of the person's disability, nor is it necessary or permitted for RRHA to ask about anyone's diagnosis or details of treatment. If a verification source sends such information it should not be placed in the file; it should be disposed of in a secure manner.

If a person's disability is obvious, or otherwise known to RRHA, and if the need for the requested accommodation is also readily apparent or known, then RRHA may not request any additional information about the requester's disability or the disability-related need for the accommodation. If the requester's disability is known or readily apparent to the RRHA, but the need for the accommodation is not readily apparent or known, RRHA may request only information that is necessary to evaluate the disability-related need for the accommodation.

The decision to approve or deny the reasonable accommodation request shall be made as expeditiously as possible but must be within sixty (60) working days of the receipt of the request. If the request is approved, schedule of timely completion will be documented and communicated to the requestor.

If the Property Manager's recommendation is to deny the request, the property manager forwards their recommendation and all materials and verifications to the Assistant Vice President of Property Management.

All recommendations for denial from the Assistant Vice President of Property Management must be forwarded to the 504 Coordinator/Compliance Officer for further review and final determination.

Once the decision has been made to approve a request for a reasonable accommodation, a copy of all documents shall be forwarded to the ADA/504 Coordinator.

The resident will be notified in writing of the final reasonable accommodation determination by the Property Manager. If the accommodation is approved, the resident will be notified of the projected date for implementation. If the accommodation is denied, the resident will be notified of the reasons for denial.

All recommendations that have been approved by the ADA/504 Coordinator will be forwarded to the Assistant Vice President of Property Management for implementation. All requests for reasonable accommodation that are approved by the Assistant Vice President of Property Management will promptly be implemented or begin the process of implementation.

If a request for a reasonable accommodation is denied, RRHA will seek to provide the individual with a disability an alternative opportunity to fully participate in the program or activity provided by RRHA.

RRHA will make every reasonable effort to provide reasonable accommodations to residents with a disability including transfer to an available UFAS compliant unit. If a resident rejects the offered transfer or voucher, RRHA will be willing to make minor modifications to the resident's unit unless doing so would be structurally impracticable or would result in an undue administrative and financial burden. Examples of this type of impractical requests may be, but is not limited to, the installation of ramps, widening of doorways, major kitchen, or bathroom modifications.

If the resident accepts the transfer, RRHA may work with the resident to obtain moving expenses from social service agencies or other similar sources. If that effort to obtain moving expenses is unsuccessful within 30 days of the assignment of the dwelling unit, RRHA shall pay the reasonable moving expenses. Nothing contained in this paragraph is intended to modify the terms of RRHA's Tenant and Assignment Plan and any resident's rights thereunder.

When issuing a voucher as an accommodation, RRHA must include a list of current available accessible units known to RRHA, upon request. RRHA will also provide search assistance. RRHA may also partner with a qualified, local disability organization to assist the resident or applicant with the search for available, accessible housing.

Reasonable Accommodations will be made for applicants during the application process. All applications must be taken in an accessible location. Applications will be made available in accessible formats. Sign language interpreters and readers will be made available upon request.

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I. Reasonable Accommodations in Adjusting the Utility Allowances

On request from a family that includes an elderly or disabled person, RRHA must approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed to make the program accessible to and usable by the family (PH Occ GB, p. 172).

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S. Utility Allowance and Utility Reimbursement Payments

Utility Allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. The objective of RRHA in establishing utility allowances for each dwelling unit category and unit size shall be to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment. Utilities include gas, electricity, and fuel for heating, water, sewerage and solid waste disposal for a dwelling unit. In addition, if RRHA does not furnish a range and refrigerator, the family must be granted a utility

allowance for the range and refrigerator they provide. (PH Occ GB, p. 138) Costs for telephone, cable/satellite TV and Internet services are not considered utilities. (PH Occ GB, p. 138) Utility Allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage. (PH Occ GB, p. 138) If the cost of utilities (excluding telephone) is paid by the Tenant, a utility allowance will be deducted from the total tenant payment. The Utility Allowance is intended to help defray the cost of utilities not included in the rent. The allowances are based on the monthly cost of reasonable consumption utilities in an energy conservative household, not on a family's actual consumption. When the Utility Allowance exceeds the family's Total Tenant Payment, RRHA will provide a Utility Reimbursement Payment for the family each month. The check may be made out directly to the tenant or to the utility provider.

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T. Individual Resident Relief from Excess Utility Surcharges

Requests for relief from charges for excess consumption of RRHA purchased utilities may be granted on reasonable grounds. [24 CFR 965.508].

1. Reasons for relief include:

- a. Special needs of residents who are elderly,
- b. Special needs of residents with a disability, or
- c. Special factors affecting utility usage not within the control of the resident.

2. Process:

Residents wishing to request relief under this procedure should contact the Property Manager of the development in which the resident resides.

3. Criteria for granting relief:

Residents will provide written documentation to support a request for relief. Requests will not normally be acted upon without this documentation. Exceptions will be considered on a case-by-case basis. RRHA has sole discretion to grant relief under this procedure without documentation. Adjustments to utility allowances will be effective beginning the month for which resident's request was made.

Residents who disagree with a RRHA decision may request an informal hearing in accordance with the Grievance Procedure, a copy of which is maintained in the management offices.

U. Reasonable Accommodations in Adjusting the Utility Allowances

On request from a family that includes a disabled person, RRHA must approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed to make the program accessible to and usable by the family. The policy of the RRHA is to adjust the amount of tenant-paid utilities or PHA consumption levels for tenant allowances in documented situations when a qualified family is entitled to the adjustments.

Such adjustments shall be made based on the qualification of the disabled individual's special need and the relief granted to the resident should be commensurate with the estimated value of the utility consumption necessitated by the equipment or condition causing the excess consumption. Residents wishing to requests relief under this procedure should contact the Property Manager of the development in which the resident resides. Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of a disability.

Residents who disagree with an RRHA decision may request an informal hearing in accordance with the Grievance Procedure, a copy of which is maintained in the management offices.

W. Excess Utility Payments

Residents in units where RRHA pays the utilities will be charged for excess utilities. This charge shall be applied as specified in the lease. [24CFR 966.4(b) (2)] Residents that are paying flat rent and in units that are individually metered will be charged for the excess utilities used above the allowable level.



**Administrative Procedures for Determining
Individual Resident Relief
From Excess Utility Surcharges**

I. Background

Utility allowances are based upon the reasonable consumption of an energy conservative family of modest circumstances. Utility allowances provide for the basic essentials needed for a living environment that is safe, sanitary and healthful. HUD regulations, found at 24 CFR §965.505(e), do not permit utility allowances for air conditioning. HUD regulations, found at 24 CFR 965-508, allow PHAs to grant public housing residents individual relief from surcharges for excess utility consumption of PHA-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities.

II. Reviewing Utility Allowance Schedules and Providing Residents Notice of the Utility Allowance Schedule

- A.** Annually, during the re-examination process, public housing residents shall be notified of the applicable utility allowance schedule for their respective public housing community. Public housing residents shall be notified, at least, sixty (60) days in advance before any changes to the utility allowance schedule. Notices shall include the procedure for Requesting Individual Relief from Excess Utility Surcharges.
- B.** Each public housing unit is allocated an average monthly utility allowance that is based on, but not limited to, the following considerations:
 - 1. The type of construction and design of the dwelling unit;
 - 2. The size of the dwelling units and the number of occupants per dwelling unit;
 - 3. The temperature levels intended to be maintained in the unit of 68° Fahrenheit for heating and 78° Fahrenheit for cooling which is the recommended setting for an energy conservative household;
 - 4. The physical condition, including insulation and weatherization, of the unit;
 - 5. Seasonal differences and the climatic location of the communities,
 - 6. Specific items or equipment furnished by the Housing Authority that use electricity and the electricity consumption requirements of these appliances;
 - 7. Energy costs; and
 - 8. The temperature of the domestic hot water adjusted for local geographical locations and 120° thermostat settings were used, which is considered energy conservative.

III. Resident Requests for Individual Relief

- A.** Where applicable, residents may request relief from excess utility surcharges if:
1. A resident is elderly and a nexus (connection) exists between the relief requested and the resident's age;
 2. A resident has a disability and a nexus exists between the relief requested and the disability; or
 3. A resident suspects an electrical, mechanical or systems anomaly exists that has caused an excess utility surcharge for his/her unit.
- B.** When the request is based on age, disability, or a characteristic of the unit or RRHA supplied equipment, RRHA will determine whether a nexus (connection) exists between the relief requested and the age, disability, or characteristic of the unit or RRHA supplied equipment. The relief granted to the resident should be commensurate with the estimated value of the utility consumption necessitated by the equipment, condition, or characteristic causing the excess consumption.
- C.** When the request is based on disability, RRHA may request reliable disability-related information that (1) is necessary to verify that the person meets the Fair Housing Act's definition of disability, (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.

Information verifying that the person meets the Fair Housing Act's definition of disability can usually be provided by the individual himself or herself (*e.g.*, proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits or a credible statement by the individual). A reliable third party who is able to know about the individual's disability may also provide verification of a disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

If a person's disability is obvious, or otherwise known to RRHA, and if the need for the requested accommodation is also readily apparent or known, then RRHA may not request any additional information about the requester's disability or the disability-related need for the accommodation. If the requester's disability is known or readily apparent to the RRHA, but the need for the accommodation is not readily apparent or known, RRHA may request only information that is necessary to evaluate the disability-related need for the accommodation.

- D.** When the request is based on an electrical, mechanical or systems anomaly, the resident should make a request for repairs through the Work Order System. Residents should notify the AMP Management Office if they detect any issues with the meter or receive information from Dominion Virginia Power of a defect with the meter or meter readings.

- E. When making a Request for Individual Relief the resident should proceed as follows:
1. Submit the Request for Individual Relief Form to the AMP Management Office within twenty (20) calendar days of notice of the excess utility charges (on the Rent Statement).
 2. If the excess utility surcharge is due to the use of medically required equipment, the Resident must provide all necessary documentation and/or the contact information for a knowledgeable professional to verify the need for medically required equipment, unless the need is obvious.
 3. All requests related to the use of medically related equipment will be documented on the monthly reasonable accommodation report.
 4. If the resident suspects that the excess utility charge is due to equipment furnished by the housing authority, the AMP Manager shall schedule an inspection of the equipment provided by the housing authority. If the resident wishes to have an independent third party inspect the equipment furnished by the Housing Authority, the resident may request an inspection by an independent third party, including Dominion Virginia Power. **RRHA shall have a representative present at that inspection. The cost of that inspection by the independent third party will be the responsibility of the resident.**
- F. In all instances, RRHA must determine if the request is reasonable.
- G. All *Requests for Individual Relief* should be made at the AMP Management Office by the resident completing a *Request for Individual Relief* form. The AMP Manager will respond to the Request for Individual Relief based upon information supplied by the resident in the Request for Relief and any additional information regarding the circumstances that the AMP manager can document. *Wasteful or unauthorized usage of utilities by residents (or their authorized household members or guests) will not qualify for relief from Excess Utility Surcharges.* Adjustments to utility allowances will be effective beginning the month for which resident's request was made.
- H. In considering a resident's Request for Individual Relief, the AMP Manager must consider:
1. Any special health or disability related equipment that a knowledgeable medical professional verifies is necessary for the resident; and/or
 2. Any special conditions that a knowledgeable professional verifies necessary for the resident.
- I. In making a determination of whether to grant individual relief from excess utility surcharges, the AMP Manager shall:

1. Review the resident's Request for Individual Relief to determine:
 - a. If a nexus exists between the relief requested and the resident's age, disability, or a characteristic of the unit of RRHA supplied equipment; and
 - b. If the utility consumption for the past two consecutive months exceeds the utility allowance by a substantial amount (at least fifteen (15%) percent). *If the resident's consumption does not consistently exceed the consumption allowance, the resident must be informed that he/she does not qualify for individual relief, unless the request is related to the resident's disability.*
2. Inspect the resident's unit within a reasonable time (15 calendar days) after receipt of the resident's Request for Individual Relief to confirm the presence of additional appliances, equipment, etc. or the utility source related issues.
3. If the excess utility surcharge is due to a defect in equipment furnished by RRHA, the AMP Manager must consult with the Director of Central Maintenance to determine the value of the excess utility surcharges resulting from the defect. The AMP Manager and or Director of Central Maintenance may also find it necessary to consult with the applicable utility provider (e.g., Dominion Power) to determine the corresponding amount of excess utility used.
4. When special temperatures and/or medically related equipment are required in the unit, as indicated by the knowledgeable medical professional, the amount of utility usage necessary to maintain those temperatures and/or medically related equipment must be estimated by the AMP Manager. The resident is not required to know or calculate the necessary usage, but must submit any information the resident has.

The AMP Manager shall provide the resident a written decision, granting or denying the Request for Individual Relief, in whole or in part, within fifteen (15) calendar days from the inspection of the resident's unit. The written decision must state the reasons for the decision and also include a statement advising the resident of his/her right to grieve the decision, in accordance with RRHA's Grievance Procedure. **The only relief provision will be that the Housing Authority will adjust rent payments.** *The Compliance Manager will be notified of all decisions made for requests due to the use of medically required equipment.*

- J. Any rent adjustment will be performed by the AMP Manager or designee. If the rent adjustment results in a negative rent, the resident may request, in writing, to receive payment. The amount must exceed ten dollars (\$10.00).