

North Andover Housing Authority

One Morkeski Meadows
North Andover, MA 01845



(978) 682-3932
(978) 794-1142 FAX
(800) 545-1833 Ext. 100 TDD

Informal Hearings for Participant Hearings

When an Informal Hearing must be offered to a Family

The NAHA will offer a Family participating in the program an informal hearing for the following reasons: (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 NAHA allowance schedule; (c) a determination of the Family Unit Size under the NAHA Subsidy Standards; (d) a determination to terminate assistance for a Participant Family because of the Family's action or failure to act; (e) a determination to terminate assistance because the Family has been absent from the assisted Unit for longer than maximum period permitted under NAHA policy and HUD rules; f) a determination to deny a Reasonable Accommodation.

When an Informal Hearing is not required

The NAHA is not required to provide a Participant Family an opportunity for an informal hearing for any of the following: (a) discretionary administrative determinations by the NAHA; (b) general policy issues or class grievances; (c) establishment of the NAHA schedule of Utility Allowances for families in the program; (d) a NAHA decision not to approve an extension or suspension of a Voucher term; (e) a NAHA determination not to approve a unit or tenancy; (f) a NAHA determination that an assisted unit is not in compliance with HQS; (g) a NAHA determination that the unit is not in accordance with HQS because of the Family size; (h) a NAHA determination to exercise or not to exercise any right or remedy against the Owner under a HAP Contract.

Notice to the Family to Request an Informal Hearing

The NAHA will notify the Family of the basis for the NAHA determination. The NAHA will attempt to schedule a private conference. If a resolution cannot be reached at the Private Conference, the NAHA will notify the Family in writing that the Family may request an informal hearing within ten days.

Expeditious Hearing Process

The NAHA will hold a hearing and issue a decision promptly. The Family will continue receive assistance while a decision is pending.

Hearing Procedures

(a) *Time to request a hearing.* The Participant has 10 days from the date of the proposed termination letter, except in Non-Citizen Rule cases where the time period shall be 30 days from the date of the notice of termination of assistance for any Family member.

(b) *Scheduling.* The NAHA will schedule an informal hearing upon the receipt of a Participant's written request. The Participant will be given at least fourteen (14) days' notice prior to the hearing date.

(c) *Discovery.* The NAHA will give the Family the opportunity to examine before the hearing, any documents in NAHA's possession that are directly relevant to the hearing. The NAHA will allow the Family to make copies of the relevant documents before the hearing at the Family's expense. The NAHA will also allow a representative of the Family with an authorized release to have access to the file. If the

NAHA does not make the document available to the Family for examination upon request, then the NAHA may not rely on the document at the hearing. The Family must allow the NAHA to examine any Family documents that are directly relevant to the hearing before the hearing upon request. The Family must allow the NAHA to examine the relevant documents at the NAHA and the Family will allow the NAHA to copy the relevant documents at the NAHA's expense. If the Family does not make the document available to the NAHA for examination upon request, then the Family may not rely on the document at the hearing. Either party may request an extension if required to rebut documents that were not provided to the opposing party prior to the hearing. Extensions will be granted at the discretion of the hearing officer.

(d) Amendments to Proposed Terminations. If the NAHA wishes to amend the grounds for the proposed termination, the NAHA must notify the Participant of the amendment in writing, not less than fourteen (14) days prior to the hearing date. The amendment will be sent by regular and certified mail to the Participant's address of record. When sending out an amended proposed termination notice, the amended notice shall contain all violations. If the Participant has already requested a hearing due to the original proposed termination, a request for a hearing due to the amended notice is not required.

(e) Representation of Family. At its own expense, the Family may be represented by a lawyer or other representative of the Family's choice.

(f) Evidence. The NAHA and the Family will each be given the opportunity to present evidence and question any witnesses. The Hearing Officer may consider evidence without regard to admissibility under the rules of evidence applicable to judicial proceedings.

(g) Hearing File. The hearing file shall consist of all documents submitted by either party in relation to the subject of termination. The NAHA shall maintain audio recordings of all termination hearings.

(h) Hearing Officer. Any designated NAHA employee may conduct the informal hearing, other than a person who made the decision under review or his or her subordinate.

(i) Extensions. The hearing officer may use discretion to grant an extension or continue the hearing to hear additional evidence or testimony.

(j) Issuance of Decision. The hearing officer shall make a factual determination relating to the individual circumstances of the Participant based on a preponderance of the evidence presented at the hearing. The hearing officer shall take into consideration all relevant circumstances and any mitigating circumstances presented by the Participant. The hearing officer shall promptly render a written decision briefly stating the reasons for the decision. The hearing officer will send a copy of the decision to the Family by certified and first-class regular mail. The hearing officer will also forward a copy of the decision to the Leased Housing Department and the NAHA.

(k) Failure to attend the hearing. The NAHA may terminate the subsidy if the Participant does not attend the hearing and does not attempt to reschedule within twenty-four (24) hours prior to the hearing or appears for the hearing thirty (30) or more minutes late. The NAHA will reschedule the hearing when a Participant submits evidence of compelling circumstances that prevented the Participant from attending the hearing on the scheduled date. If the Participant does not attend the hearing because the scheduling notice was not received due to the Participant's failure to give the NAHA, the correct and most current address the NAHA may terminate the subsidy. If the scheduling notice was sent via certified mail and first class mail and is returned to the NAHA with a return receipt indicating that delivery was attempted

by USPS but that the addressee failed to pick up the certified mail AND the first class mail is NOT returned as undeliverable, the hearing notice will be considered received.

The NAHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family's assistance is terminated, the notice of termination must inform them of the NAHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the NAHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the NAHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the NAHA must make the accommodation.

-Adopted by the Board of Commissioners January 2021