



## **HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY REASONABLE ACCOMMODATION GUIDELINE**

The purpose of this Reasonable Accommodation Guideline is to assure equal access to services, programs and activities for persons with disabilities, which includes approving reasonable accommodations for qualified individuals with a disability and more generally to set forth the policies and procedures of the Housing Opportunities Commission of Montgomery County (HOC) with regard to reasonable accommodations. If an individual with a disability requires an accommodation, such as an accessible feature in a unit or a modification to an HOC policy, HOC will approve the accommodation unless it will result in a fundamental alteration in the nature of the program or an undue financial and administrative burden to the Agency.

Furthermore, the policies and procedures described herein are applied by HOC in a consistent and nondiscriminatory manner as directed by the fair housing requirements of the U.S. Department of Housing and Urban Development (HUD). HOC and Management Agent staff must comply with this procedure in accordance with the Fair Housing Act of 1968 (as amended by the Fair Housing Act of 1988), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990 (including the ADA Amendments Act of 2008), as well as Maryland State and Montgomery County Human Rights Laws, and the U.S. Department of Housing and Urban Development's (HUD) regulations governing Fair Housing and Equal Opportunity, as each may be amended. All terms and conditions described herein are offered equally to all prospective and current clients of HOC's housing programs. HOC encourages all residents or applicants with disabilities who seek a reasonable accommodation, to request the specific change to a policy or unit through HOC's Request for Reasonable Accommodation form. This form is available at any HOC office and on HOC's website at [www.hocmc.org](http://www.hocmc.org).

### **GUIDELINE**

A Reasonable Accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that is necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. A Reasonable Modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings, and to common and public use areas.

HOC refers to all categories of reasonable accommodations and reasonable modifications jointly, as reasonable accommodations. HOC affirms its commitment to assuring equal access to services, programs, and activities for persons with disabilities, as it is HOC's policy to provide a reasonable accommodation to a qualified person with a disability. If an individual with a disability requires an accommodation, such as an accessible feature added to a unit or an exception or modification to an HOC policy, HOC will provide the accommodation as long as it will not result in a fundamental alteration in the nature of the program or an undue financial burden to the Agency. In all situations, HOC staff will work with the participant family to discuss available options so that some, if not all, disability related accommodations are met for disabled individuals.

## **Request for Reasonable Accommodation Form**

A resident or applicant household member with a disability that wishes to request a reasonable accommodation must first request the specific change to a policy or unit, as an accommodation of his/her disability. The resident or applicant may visit any HOC Customer Service Center for additional information, or complete HOC's Request for Reasonable Accommodation Form for a quicker response. The form is available on HOC's website, [here](#).

The individual making the request must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the Americans with Disabilities Act (ADA) definition, as follows:

- Individuals with a physical or mental impairment that substantially limits one or more major life activities;
- Individuals who are regarded as having such an impairment; or
- Individuals with a record of such impairment.

**Note:** The definition stated above is not the same as the HUD definition used for purposes of determining allowances. Once HOC confirms a person's status as a qualified individual with a disability, the individual must provide the health provider verification of the relationship (nexus) between the requested accommodation and the individual's disability. For this purpose, a health provider is a medical doctor, social worker, therapist, caseworker, or some other third-party health provider. The health provider is familiar with the individual who submits the request and provides written verification that in their professional opinion, the individual needs the specific accommodation(s). Any attempt on the part of a health provider to falsify or exaggerate a customer's disabilities may be construed as an attempt to defraud a government program.

If HOC determines that the requested accommodation creates an undue administrative and/or financial burden, HOC will either deny the request or present an alternate accommodation that will still meet the needs of the disabled individual. An undue administrative burden is described, as follows:

- Requires a fundamental alteration of the essential functions of HOC (e.g., waiving a family obligation); or
- An undue financial burden.

**Note:** An undue financial burden considers the available resources of the Agency as a whole, where the requested accommodation would impose a severe financial hardship on HOC.

HOC will provide a written decision to the individual requesting the accommodation within 45 days of receipt, provided that the request is complete. Incomplete requests will take longer to process depending on the information lacking at the time of initial submission. If an individual is denied the accommodation requested or feels that the alternative suggestions are inadequate, they may request an informal hearing to appeal HOC's decision. Informal hearing requests to appeal a reasonable accommodation decision are submitted to HOC's Fair Housing and Equal Opportunity (FHEO) Officer for processing and scheduling.

The Request for Reasonable Accommodation Form is designed to assist HOC and the individual to gain an understanding of the requested accommodation. If an individual is unable to use the form, HOC staff will complete the request on the behalf of the customer. However, HOC cannot complete the health verification section on behalf of the customer. Only an appropriate third-party health provider familiar

with the relationship between the customer's disabilities and the accommodation requested can submit the health verification portion of the request to HOC.

### **Approval/Denial**

A client may request a reasonable accommodation at any time. The decision on whether an accommodation is approved is based on reasonable cost, the likelihood that the accommodation is effective in reducing the barriers to equal housing opportunity, and whether or not it involves a fundamental change to HOC's operations. HOC considers each request for reasonable accommodation as a separate request. This meaning, that while an individual may have one accommodation approved, that does not guarantee or imply that all requests, even those very similar, are approved. Each decision is made on a case by case basis with the understanding that each individual has needs and circumstances that are unique. Furthermore, HOC does not immediately honor previously approved reasonable accommodations from other housing authorities. In order to receive consideration from HOC of a reasonable accommodation request previously approved by another PHA, customers must submit a new reasonable accommodation request to HOC.

HOC provides all reasonable accommodation approvals and denials in writing. If a reasonable accommodation request is approved or conditionally approved, the letter will describe:

- The accommodation decision to approve or deny;
- Any terms, conditions, or performance expectations subject to the customer's agreement; and
- The date for implementation (if available), which in most cases is as soon as practicable (typically 30 days from the date of the decision).

All decisions to approve or deny reasonable accommodation requests are communicated in writing and within forty-five (45) calendar days from the date HOC receives sufficient information from a customer to make a decision. HOC makes all necessary efforts to issue decisions as quickly as possible. If additional information is required, HOC contacts the customer with a letter, email, fax, or phone call stating the information required to complete the request. All written decisions advise customers of any right to appeal with the deadline for exercising those rights. The customer may request an informal hearing to appeal the decision. HOC works to schedule informal hearings as soon as possible upon receipt of the appeal request.

**Note:** If an appeal is overturned, HOC attempts to implement the new accommodation no later than forty-five (45) days from receipt of the written decision from the Hearing Officer. If implementation requires additional time, HOC notifies the customer when implementation is expected.

HOC uses the following methodology in approving reasonable accommodation requests:

- Is the applicant/resident a qualified individual with disabilities?
- Is the requested reasonable accommodation request related to the disability?
- Is the requested accommodation reasonable?

In some instances, HOC accepts the judgment of the person with a disability that a reasonable accommodation is necessary. However, HOC retains the option to require the person with a disability to provide the appropriate health verification, the need for an accommodation to enable him/her to access and use the given housing program or physical feature. Furthermore, HOC may accept the judgment of the person with a disability that the requested reasonable accommodation is the most appropriate for

him/her. However, HOC may also investigate alternatives to the requested accommodation, and/or alternative methods of providing the requested accommodation, depending on the request. This may include a program transfer within or without HOC programs and/or Montgomery County.

**Note:** If a number of potential reasonable accommodations will satisfy the needs of the person with disabilities, HOC reserves the right to select the accommodation which is most convenient and cost-effective for the Agency. This includes the option to select a change in procedure or policy, rather than to make a structural change, when the procedural change is equally effective.

If an applicant requests an accommodation in order to overcome negative information or a resident requests an accommodation in order to overcome a lease violation, HOC assesses the impact and severity of each situation on a case by case basis. HOC seeks to determine if the requested accommodation eliminates, or satisfactorily reduces, the impact or severity, so that the person can occupy the unit with a reasonable expectation of success.

**Note:** HOC's Property and Resident Managers are encouraged to accept an "eligible" request for their specific housing program, if the request for a reasonable accommodation does not exceed \$500 and does not involve program changes and/or transfers, residency and eviction decisions. Following any decision, HOC or its Management Agent staff must forward a copy of the Request for a Reasonable Accommodation Form to HOC's FHEO Officer.

HOC's FHEO Officer and appropriate Division/ Department Director will make the decision to approve or deny an "eligible" request, if the request for a Reasonable Accommodation does not exceed \$7,500. HOC's FHEO Officer and the appropriate Division/Department Director will make a recommendation to the Executive Director to approve or deny an "eligible" request if the request for a reasonable accommodation exceeds \$7,500.

### **Administration**

HOC's FHEO Officer administers this guideline in accordance with HUD regulations governing fair housing and equal opportunity. Customers have the option to submit the Request for a Reasonable Accommodation Form via email, fax, or regular mail. The contact information for submitting the completed form, along with health verification to HOC is as follows:

ATTN: HOC FHEO Officer  
Compliance Department  
Housing Opportunities Commission  
10400 Detrick Avenue  
Kensington, Maryland 20895  
Fax: 301-949-1433  
[RAInbox@hocmc.org](mailto:RAInbox@hocmc.org)

HOC reviews all complete reasonable accommodation requests to determine eligibility and approve or deny each request, as stated in the previous section. Customers also have the option to make a verbal accommodation request at an HOC Customer Service Center, where HOC staff will submit a request on the customer's behalf. However, HOC staff cannot assist with completing the health verification portion of the form. Only a qualified health provider may complete that portion of the request. Communications under this guideline are sent to customers in plain language and in a format appropriate to meet the communication needs of the person with disabilities. If a client requires an in person meeting with an HOC

staff member regarding their reasonable accommodation request, HOC staff will schedule the meeting in an accessible location.

### **Live in Aides**

A live-in aide is described as a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the person(s) whom they assist;
- Will provide the care;
- Is needed for overnight care by the elderly and/or disabled person(s) whom they assist;
- Is not obligated for the support of the person(s) whom they assist;
- Would not be living in the unit except to provide care for the person(s) whom they assist; and
- Meets the relevant occupancy requirements of the housing program.

HOC's FHEO Officer and Division/Department Director (or designee) are responsible for approval of live-in aides.

The person(s) requesting a live-in aide must demonstrate that he/she has the resources, either personal or third-party, to compensate the aide, if payment is required. Also, the person(s) requesting the aide must provide HOC with a completed Health Provider's Verification of Need for a Reasonable Accommodation in Housing, or similar documentation from a health provider. HOC may consider a relative as a live-in aide/attendant, if they meet the above requirements, including the occupancy requirements of the relevant housing program.

The live-in aide qualifies for occupancy, only as long as the individual requiring the supportive services continues to require the live-in-aide's services and remains a resident. The live-in-aide will not qualify for continued occupancy as a remaining family member in the event of death or some other departure from the unit by the person for whom the aide is needed. At its discretion, HOC staff may require evaluation of the disabled household member to determine his/her capacity to accomplish Activities of Daily Living (ADL).

HOC may refuse to approve a live-in aide if:

- The person does not meet at least one of the criteria described above;
- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other debts to HOC or to another Public Housing Agency (PHA) in connection with another housing program or public housing assistance under the 1937 Act.

If approved, the individual who will serve as the aide is required to sign a residency agreement or similar document. The household is also required to document the services that the aide provides. Finally, the live-in aide's income is not calculated as part of the household's annual income, in accordance with HOC and program regulations.

### **Utility Allowance Increase**

Some HOC programs require the Agency to provide a utility allowance for participating households. In such instances, HOC develops utility allowance schedules detailing dollar amounts per unit size and unit type for all tenant-paid utilities, excluding telephone services. This includes gas, electric, and water as well as the cost of tenant-supplied refrigerators and ranges, and any other tenant-paid housing services such as trash collection and disposal of waste and refuse.

HOC customers participating in programs which provide a utility allowance may request a higher utility allowance as reasonable accommodation for a household member with disabilities. As with all other reasonable accommodation request, the family that includes a person with disabilities must provide health verification which explains how the disabled customer's disabilities are assisted by an increase in utility allowance which is higher than the applicable amount on the utility allowance schedule for the given unit. HOC also requires provision of at least six (6) months of utility bills to further demonstrate the need for this accommodation.

All reasonable accommodation requests for Utility Allowance Increases are subject to review by HOC's Executive Director prior to final approval.

### **Voucher Payment Standard Increase Exception**

Under the Housing Choice Voucher (HCV) program, a landlord receives a portion of its rent from the tenant and the remainder from HOC. Each voucher customer is required to pay at least 30 percent (30%) of their monthly adjusted income as their tenant contribution to the rent. This is known as the Total Tenant Payment (TTP). When a customer first moves into a new unit, the TTP can be no lower than 30 percent (30%) and no more than 40 percent (40%) of their monthly adjusted income. When a customer renews their lease after the first year, they are permitted to exceed the 40 percent (40%) TTP limit. The TTP is paid directly by the tenant to their landlord.

The remainder of the rent payment comes from HOC. This is the voucher payment standard (VPS). The VPS is calculated as a percentage of HUD's Small Area Fair Market Rents (SAFMR) for the jurisdiction. Since there is a different SAFMR for each zip code in Montgomery County, there is a different VPS for each zip code in Montgomery County. Typically, HOC is not permitted to pay a landlord any more than the established VPS for the given zip code. Exceptions to increase the VPS are permitted as disability accommodations using the reasonable accommodation process. However, sufficient health verification and evidence of a thorough search for units elsewhere in the PHA's jurisdiction that meet the disability-related needs of the customer, but do not exceed the affordability range of the voucher, are needed in order to make a final reasonable accommodation decision.

In order to demonstrate that a customer conducted a thorough search for units, HOC requires submission of a list of at least ten (10) units. To assist with the housing search, Resident Services has housing locators available. Prior to approval, Compliance will complete a referral soliciting housing location assistance from resident services. The list must feature the names of the properties, the unit number about which the customer inquired, the address of the property, and the reason the customer is unable to rent the unit. Acceptable reasons for the inability to rent are only:

1. There are not any appropriately sized units available at the property;
2. The available unit did not meet the disability-related needs of the customer as defined by the health verification in the reasonable accommodation request; and/or
3. The available unit is also unaffordable based on the VPS of the zip code in which the unit is located.

The TTP plus HOC's VPS must equal the landlord's rent each month. Therefore, if the landlord's rent, the voucher's payment standard, or the customer's income changes, a customer may either (a) no longer be able to afford their unit, or (b) be able to afford a unit that was previously beyond their affordability range. Accordingly, reasonable accommodation requests for Voucher Payment Standard Increase Exceptions are subject to reevaluation annually.

All reasonable accommodation requests for Voucher Payment Standard Increase Exceptions are subject to review by HOC's Executive Director prior to final approval.

### **Voucher Size Increase**

According to Chapter 5 of HOC's Administrative Plan for the Housing Choice Voucher program ("Administrative Plan"), voucher size is determined based on the following guidelines:

The single head of household is assigned one bedroom.

The head of household with a spousal relationship or significant other is assigned one bedroom.

Beyond the head of household, two persons regardless of age or gender, are assigned one bedroom.

Typically, HOC is not permitted to provide a voucher size which is larger than the required subsidy standards explained above. If there is a change in a voucher customer's household composition which conflicts with the subsidy standards, then their voucher is downsized.

However, HOC may provide exceptions to increase the size of a family's voucher - in a departure from the typical subsidy standards - as a disability accommodation using the reasonable accommodation process. For feasibility purposes, if a voucher customer submits a disability accommodation requesting an increase in the voucher size to provide an additional bedroom for a household member, HOC may approve one of the following:

1. Approve the customer for a Voucher Payment Standard (VPS) exception to the current Housing Choice Voucher bedroom size not to exceed 120% of the HUD approved SAFMR defined by zip codes for the current Housing Choice Voucher size; or
2. Approve the requested Housing Choice Voucher bedroom size to allow the household member may receive their own room.

HOC will send the customer a letter to explain the options of either the VPS exception or the additional bedroom. The voucher customer must submit the appropriate documents required in order to determine the feasibility of the request. If necessary, the Compliance Specialist will refer the voucher customer to the Housing Locator in the Resident Services Division. The Compliance Specialist must submit the documents and explain which option is the most feasible to the Compliance Oversight Manager in order to get the final approval by HOC's Executive Director.

All reasonable accommodation requests for Voucher Size Increases are subject to review by HOC's Executive Director prior to final approval.

### **Voucher Reinstatement**

Under the HCV program, if a customer is terminated for a reason which they believe is mitigated by the presence, and direct conflict with, a disability-related need, they may submit a reasonable accommodation request to ask for voucher reinstatement. Such a request requires very specific health verification which explains how the customer's disabilities are related to the termination which they believe is unwarranted.

All reasonable accommodation requests for Voucher Reinstatement are subject to review by HOC's Executive Director prior to final approval.

## **COMPLIANCE OVERSIGHT**

Compliance is responsible for enforcement of this guideline and reviews a percentage of completed reasonable accommodation requests annually. A secure file is established for each individual Request for a Reasonable Accommodation Form with all subsequent correspondence and information. Compliance conducts a monthly review of all reasonable accommodations submitted evaluating the number of requests, the disposition of those requests, timely response to requests, and any outstanding issues.

**Upon Request, Copies of this guideline are available in an accessible format to persons with disabilities.**