

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Health, pursuant to the authority set forth in Section 7 of the AIDS Health-Care Response Act of 1986 ("Act"), effective June 10, 1986 (D.C. Law 6-121, D.C. Official Code § 7-1606), and Mayor's Order 2000-55 dated April 12, 2000, hereby gives notice of the adoption of the following amendments to Chapter 2 of Title 22 of the District of Columbia Municipal Regulations (DCMR) (Public Health and Medicine) (August 1986). The Director took final action to adopt these rules on November 1, 2006.

The rules amend Chapter 2 of Title 22 by aligning the confidential names-based systems in which new cases of both AIDS and HIV are reported to the Director of the Department of Health or a designated agent. A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 11, 2006 at 53 DCR 6580. In response to the Notice of Proposed Rulemaking the Director received three comments. One commenter supported the amendments without change. Two commenters generally supported the amendments but requested that the phrase "public health" be deleted from § 206.5, which limits the purposes for which information received pursuant to Chapter 2 may be used. The Director chose not to adopt this recommendation because it is inconsistent with the confidentiality provision in the authorizing legislation, § 6 of D.C. Law 6-121, the AIDS Health-Care Response Act of 1986 (D.C. Official Code § 7-1605), which applies the same confidentiality requirements that apply to reports of cases of cancer (D.C. Official Code § 7-302). No other changes have been made to the text of the rules. These rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 2 of Title 22 (Public Health and Medicine)(August 1986) is amended as follows:

Section 206.2 is amended to read as follows:

206.2. Physicians licensed to practice in the District under the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code 3-1201.1 *et seq.*) shall report all diagnosed cases of HIV and AIDS to the Director within forty-eight (48) hours of diagnosis and furnish information the Director deems necessary to complete a confidential case report. Additionally, any provider, laboratory, blood bank, or other entity or facility that provides HIV testing shall report all cases of HIV infection to the Director or his or her designee.

Section 206.3 is amended to read as follows:

206.3. The reports required by section 206.2 shall include the patient's name, address of residence, including city, state, and zip code, gender, race or ethnicity, mode of exposure, place or country of birth, date of birth, date of diagnosis of HIV or AIDS and opportunistic infections, the name and

telephone number of the person making the report, and the name of the entity providing health or medical services.

Section 206.5 is amended to read as follows:

206.5 Information reported under this section shall be used for statistical, public health, epidemiological, and surveillance purposes only. The Director, or his or her designee, shall not disclose the identity of any person with an HIV infection or reported AIDS case without the person's written permission.

Section 206.6 is added as follows:

206.6 The Department of Health shall ensure continued reasonable access to anonymous HIV testing through alternative testing sites in consultation with HIV planning groups and affected stakeholders, including representatives of persons living with HIV and HIV/AIDS service providers.

Section 211.4 is amended to read as follows:

211.4 Whenever a test made in a public or private laboratory is positive for HIV or is indicative of an HIV diagnosis, including CD4 and viral load tests, the person responsible for the operation of the laboratory shall report the positive test to the Director or an agent of the Director or his or her designee, in writing, within forty-eight (48) hours, giving the following information:

- (a) The name of the subject of the test;
- (b) The name and address of the physician or provider requesting the test;
- (c) The patient's medical record number; and
- (d) All other information required under this section.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (“DCHA”) hereby gives notice of the adoption of final rules amending and restating parts of Chapter 60, Chapter 61 and Chapter 64 of Title 14 of the District of Columbia Municipal Regulations providing for certain additions and amendments to the regulations governing the admissions, selection and transfers of applicants for units with features for the accommodation of the mobility impaired. Notice of Proposed Rulemaking was published on September 29, 2006 at 53 DCR 7882-7886. No comments were received concerning these rules and no changes have been made since publication as a Notice of Proposed Rulemaking. These final rules will be effective upon publication of this notice in the D.C. Register.

Add to Chapter 60 – Low Rent Housing: General Provisions—the following language:

6099. Definitions

Uniform Federal Accessibility Standards (UFAS)—

Construction standards with minimum requirements for accessibility for dwelling units constructed or substantially altered with the assistance of federal funds as detailed at 24 CFR Part 8 and the addendums thereto.

UFAS Accessible Unit—

A dwelling unit that is constructed in accordance with the Uniform Federal Accessibility Standards.

Reasonable Accommodation Unit –

A dwelling unit modified to include certain accessibility features in accordance with the requirements of that certain Amended Voluntary Compliance Agreement by and between the DCHA and the U.S. Department of Housing and Urban Development, dated May 1, 2006.

Amend and Restate Subsection 6112 of Chapter 61—Admissions and Recertification, of Title 14 of the DCMR as follows:

6112 Tenant Selection and Assignment: Families with Disabilities

6112.1 In the selection of a family to occupy a UFAS-Accessible Unit, as such units become available in the appropriate bedroom size in DCHA-owned properties, DCHA shall offer the UFAS-Accessible Unit to a family that is qualified for the available

bedroom size of the Unit and has a verified need for the features of a UFAS-Accessible Unit in the following order of priority, with date and time of application or transfer request where there are multiple applicants within any one priority:

- (a) First, to any current resident requesting, and eligible for, a transfer to a UFAS-Accessible Unit;
- (b) Second, to an applicant household eligible for a UFAS-Accessible Unit in, which applicant is designated for interim assistance under the terms of DCHA's Amended Voluntary Compliance Agreement with the U.S. Department of Housing and Urban Development, dated May 1, 2006, hereinafter referred to as the Amended VCA.
- (c) Third, to the next applicant household eligible for a UFAS-Accessible Unit;

6112.2 In the selection of a family to occupy a Reasonable Accommodation Unit, as such units become available in the appropriate bedroom size in DCHA-owned properties, DCHA shall offer the Reasonable Accommodation Unit as follows, based on the earliest date and time of application:

- (a) First, to the next applicant household of the appropriate size, whose application indicates a household member is mobility impaired and uses a walker, crutches or cane and is qualified for a Reasonable Accommodation Unit;
- (b) Second, if there is not an eligible, qualified applicant under 6112.2(a) above who wishes to reside in the available Reasonable Accommodation Unit, then it will be offered to an applicant household of the appropriate size, whose application indicates a household member is mobility impaired and uses a walker, crutches or cane, but who does not need the accessible features of the unit.

6112.3 If a UFAS-Accessible Unit or a Reasonable Accommodation Unit are vacant for a period of more than thirty (30) days, and there are no families with mobility disabilities requesting the reasonable accommodation on the transfer or waiting lists, then DCHA may offer the unit to an applicant who does not need the accessibility features of the unit.

6112.4 Households electing to occupy either a UFAS-Accessible Unit or a Reasonable Accommodation Unit that do not require the accessibility features of the unit, will be required to execute a Special Supplement to the Lease that legally obligates the household to relocate to a vacant unit of an appropriately sized without accessibility features within ten (10) days of written notice from DCHA that there is an eligible applicant or existing resident with disabilities who requires the accessibility features of the unit.

Amend and Restate Subsections 6113.1, 6113.2, 6113.6 of Chapter 61 of Title 14 DCMR

6113 Tenant Admission and Occupancy: Redeveloped and Special Needs Properties

6113.1 Scope. Redeveloped Properties are mixed-finance communities owned by private entities which communities are created through HOPE VI or other public funding combined with private financing, which have some or all of their units assisted by operating funds provided by DCHA. Special Needs Properties are DCHA owned-or privately owned units assisted with operating funds provided by DCHA and managed by service providers for residents with special needs.

6113.2 Overview.

(a) Redeveloped Properties and Special Needs Properties because of the unique nature of their substantial private funding and/or private ownership or management have admissions and occupancy rules that are tailored to the particular property, type of occupancy and need to coordinate with other supportive service programs.

(b) This Section 6113 sets forth the regulatory framework for the property based rules and ongoing DCHA oversight or approvals governing occupancy and re-occupancy, selection criteria, screening criteria, application processing, waiting lists, lease provisions, income determinations and grievance procedures.

(c) DCHA pursuant to the MTW Agreement entered into with the U.S. Department of Housing and Urban Development, dated July 25, 2004, provides that DCHA may, notwithstanding certain provisions of the Housing Act of 1937 and regulations issued pursuant thereto, adopt local rules for the governance of its public housing and housing choice voucher programs. Thus, this Section 6113, in each of the areas identified hereinabove, for all properties officially designated as Redeveloped or Special Needs Properties by the Board of Commissioners, are the applicable rules therefor.

6113.3 Selection Criteria

(a) The selection criteria, including all priorities and preferences for applicants for initial occupancy following construction and re-occupancy upon vacancy of units at Redeveloped or Special Needs Properties that are receiving operating subsidies from DCHA, are those incorporated in a regulatory and operating agreement by and between the owner and DCHA after consultation with representatives of the community and former and/or prospective residents. These selection criteria are hereinafter referred to herein as the "General Selection Criteria".

(b) While the General Selection Criteria may vary by property, selection and screening criteria for all properties shall include the mandatory federal standards with respect to certain types of criminal activity as specified in federal statute.

(c) For UFAS-Accessible Units, besides the General Selection Criteria, occupancy of the Units shall be to a household qualified for the available bedroom size of the Unit and a verified need for the features of a UFAS-Accessible Unit in the following order of priority, with date and time of application or transfer request where there are multiple applicants within any one priority:

(1) First, to a qualified returning resident who previously resided in one of the developments being redeveloped.

(2) Second, to a qualified applicant referred by DCHA from its list of households designated in 2006 for interim assistance in accordance with the provisions of the Amended VCA.

(3) Third, to a qualified applicant referred by DCHA from its list of households designated in 2007 for interim assistance in accordance with the provisions of the Amended VCA.

(4) Fourth, to a qualified DCHA resident on DCHA's Transfer List;

(5) Fifth, to a qualified public housing applicant on DCHA's Waiting List;

(6) Sixth, to a qualified Housing Choice Voucher.

6113.6 Lease Terms.

(a) Leases for Redeveloped Properties or Special Needs Properties may be developed by the owner or manager, subject to the approval of DCHA for compliance with applicable local and federal provisions as well as DCHA's regulations, including the requirements regarding Special Supplements to Lease governed by the provisions of Section 6112.4 of this Title 14.

(b) Provisions relating to rent, rent collection, security deposits, excess utility charges, and such other provisions as DCHA may approve, may vary from the DCHA standard form of lease.

Add a new Subsection 6401.1(f) of Chapter 64—Public Housing Transfers – of Title 14 of the DCMR, as follows:

6401.1(f) To permit occupancy of a unit with accessibility feature by a transferring resident or eligible applicant with a verified need for such a unit;
Amend and Restate Subsection 640.1.4 of Chapter 64 of Title 14 of the DCMR, as follows:

6401.4 Applications for a transfer must be made to the resident's property manager, but all paperwork, verification and unit assignments shall be made by the Director of Housing Management, except in the case of a resident request for a transfer as a reasonable accommodation of a disability in which case the request will be processed by the Office of the ADA/504 Coordinator and the Client Placement Division.

Add to Section 6401 of the Chapter 64 of Title 14 of the DCMR, the following:

6401.10 DCHA shall relocate to a vacant, non-accessible unit within six (6) months, the remaining household members occupying a unit with accessibility features after the death, or relocation for any other reason, of the disabled household member who required the accessibility features of such Unit and who are subject to a mandatory transfer under 6401.1(f) herein.