



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY  
LANSING

KEITH MOLIN  
EXECUTIVE DIRECTOR

May 11, 2009

Ms. Ivory Hudson  
3123 Forest Road, Apt. No. 202  
Lansing, Michigan 48910

**VIA U.S. CERTIFIED MAIL  
AND REGULAR MAIL**

Dear Ms. Hudson:

Enclosed is the determination regarding the Informal Administrative Hearing held at your request on January 28, 2009. Should you have any questions about the decision, you may contact me at (517) 373-8295.

Sincerely,

Margaret A. Meyers  
Hearing Officer

Enclosure

ccw/enc.: Chris Collette  
Carl V. Bryson  
Brenda Smiles  
Brandy Westcot





JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY  
LANSING

KEITH MOLIN  
EXECUTIVE DIRECTOR

May 8, 2009

To: Christopher L. LaGrand  
Director of Legal Affairs

From: Margaret A. Meyers  
Hearing Officer, Housing Choice Voucher Program

Re: Administrative Hearing  
Program Participant -- Ivory Hudson

Ivory Hudson is the holder of a Section 8 Voucher whose participation in the Housing Choice Voucher Program (the "Program") is being terminated for (i) an unauthorized person living in the assisted unit, (ii) failure to report all household income, (iii) committing fraud in connection with a federally-subsidized housing program, (iv) lease violations, and (v) failure to provide true and complete information to the Authority (as the PHA pursuant to the Program regulations). Notice of Program Termination was sent to Ms. Hudson on October 31, 2008. On November 4, 2008, Ms. Hudson requested an informal hearing to protest the termination on the basis that her husband, Mr. Lenard Hudson, did not live with her and was only using her address for his mail. A hearing was held on January 28, 2009, at 10:30 a.m., at the Lansing office of the Authority. The hearing was attended by Brandy Westcot, the Authority's Fraud Recovery Coordinator, Ms. Ivory Hudson, and Audriene Patterson and Rodney Knight, both as observers.

### Overview

The regulations applicable to the Program are contained in 24 CFR, Part 982. 24 CFR 982.551 states the obligations of a participating family under the Program. Subsection (h)(2) requires that the PHA approve the composition of the family residing in the assisted unit. Subsection (k) prohibits any member of the assisted family from committing fraud in connection with the Program. Subsection (e) prohibits the family from committing any serious or repeated violation of the lease for the assisted unit. Subsection (b)(2) requires that any information supplied by family must be true and complete.

24 CFR 982.552(c)(1)(i) allows a PHA to terminate Program assistance if the family violates any family obligations under the Program.

The Authority's Existing Housing Policy/Procedure Manual contains the Authority's policies and procedures governing the Program. Relevant sections of this Policy are given to each voucher holder as part of the tenant briefing. Chapter XIV, Section J, of the Policy states that any adult who is not listed as part of the tenant's household and who resides in the unit for more than 30 days in a 12-month period is an unauthorized household member. Section J also states that use



735 EAST MICHIGAN AVENUE • P.O. BOX 30044 • LANSING, MICHIGAN 48909  
www.michigan.gov/mshda • (517) 373-8370 • FAX (517) 335-4797 • TTY (800) 382-4568



of the unit address as the visitor's current residence for any purpose that is not explicitly temporary is construed as permanent residence.

Chapter XV, Section A, of the Authority's Policy further states that MSHDA is obligated to terminate assistance to participants in the following situations (among others): "Failure to request MSHDA approval to add another family member as an occupant of the unit", and "The family commits fraud (including income fraud), bribery or any other corrupt or criminal act in connection with the program". Section also provides that MSHDA is obligated to terminate assistance to participants when "The family has unreported annual income to MSHDA of \$10,000 or more," or in the event of a "Failure of the family to supply true and complete information needed by MSHDA or HUD to administer the HCV Program."

### The Hearing

#### **I. Unauthorized Person Living in the Unit.**

Ms. Hudson resides at and receives a rental subsidy under the Program for 2123 Forest Road, Apt. 202, Lansing, Michigan (the "Assisted Unit"). Ms. Westcot, the Fraud Coordinator, testified that Mr. Lenard Hudson had been included as part of Ms. Hudson's household prior to January 1, 2006, after which Ms. Hudson reported that he was no longer a member of her household.

Evidence was presented by the Fraud Coordinator to support the allegation that Lenard Hudson was still residing with Ms. Hudson as an unauthorized member of the household. First, Mr. Hudson's driver's license (issued September 17, 2007) and his chauffeur's license issued through the Secretary of State (August 14, 2008) both showed his address at the Assisted Unit. Second, Mr. Hudson's vehicle title and registration records showed that he gave his address as the Assisted Unit.

Ms. Hudson testified that although Mr. Hudson did use her address for his mail, and sometimes stayed with her overnight, he did not live with her. She stated that they were separated, and that he was a trucker who traveled all over the United States and basically lived in his truck. To support this, she presented numerous automated truck scale and other receipts from all over the United States. Ms. Hudson pointed out that Mr. Hudson was paying her child support pursuant to a child support order *because* he did not live with her. She stated that her unit had been thoroughly inspected by the housing agent and the agent had never found any evidence that Lenard Hudson resided there. The only possession he kept at the Assisted Unit was a pair of shoes.

Ms. Westcot asked Ms. Hudson how often was sometimes? For example, how many times had Lenard Hudson stayed overnight in 2008? Ms. Hudson said he stayed overnight probably ten times.

Ms. Hudson stated that the first termination notice she received from the Authority had an incorrect response date in it. She wrote a letter pointing this out and in her letter asked for copies of the information the Authority was basing its termination on. Although she received a revised notice, none of the information she requested was included. Because of this, she said, she was unable to adequately prepare her defense.

Finally, Ms. Hudson again stated that Lenard Hudson did not live with them, adding that she would like for him to live with them, and began to weep.

## **II. Under Reporting Income.**

Ms. Westcot explained that Ms. Hudson had applied for participation in the Authority's Family Self-Sufficiency Program ("FSS"), and that when an income check was run, it did not match her income certification as on file with the Authority. In Ms. Hudson's application, signed by her on September 24, 2008, she stated that she had been employed by Payless Shoe Store for one month, yet she had not reported any change in income to the Authority as of that date. On that basis, the Authority denied Ms. Hudson's application and began a review of her file to determine the extent of the discrepancy.

The Fraud Coordinator presented a copy of Ms. Hudson's most recent Household, Income, Asset, and Expense Declaration, pursuant to which Ms. Hudson certified that on October 1, 2008, Ms. Hudson and her two children were the only persons in the household (Section C of that document). In the Declaration, which was an interim Declaration used for changes between the annual re-certifications, Ms. Hudson certified that she was employed at a Payless Shoe Store at the rate of \$7.40 per hour. In addition, Ms. Hudson certified that she received \$400 per month in food assistance (Section D10), and that she had court-awarded child support of \$50 per month for Paris Hudson (age 2) through Friend of the Court (Section D12). Ms. Hudson also certified that she had received a one-time Pell Grant for college in the amount of \$1,183 (Section D14).

As purported evidence of Ms. Hudson's fraud, the Fraud Coordinator presented Third Party Verifications from the Michigan Department of Human Services showing (1) that as of September 30, 2008, Ms. Hudson was receiving \$426 per month (\$5,112 per year) under the Food Assistance Program, or \$312 more per year than reported by Ms. Hudson in the interim Declaration, and (2) as of January 16, 2009, Ms. Hudson was receiving \$176 per month in TANF and \$395 per month under the Food Assistance Program. The Fraud Coordinator stated that Ms. Hudson had not reported the TANF income to the Authority.

A Verification of Earnings from Payless Shoe Source was also presented, showing that Ms. Hudson was employed on September 21, 2008, at \$7.40 per hour, and worked an average of 10-15 hours per week. Notes from the Tenant Log maintained by the Authority indicated that per the Friend of the Court, Ms. Hudson received \$16 per month, on average, in child support. A Support Statement issued by the Michigan Office of Child Support showed that Lenard Hudson

was the payer of support to the family of Ivory Monica Hudson, and that from June, 2008, through September, 2008, he had paid a total of \$21.07.

Finally, the Fraud Coordinator presented a Decision Notice from the State Emergency Relief Fund, dated January 20, 2009, approving an emergency utility assistance grant in the amount of \$369.15. This also had not been reported by Ms. Hudson as of the date of the hearing (January 29, 2009).

Ms. Hudson explained that she only began to receive the TANF payments at the end of November, after she received the Notice of Program Termination, and that she had received only five bi-weekly payments. She thought she had reported everything.

### **III. Committing Fraud in Connection with the Program**

The Fraud Coordinator did not present any additional evidence specific to this point, but referred to the Voucher signed by the tenant and the applicable sections of the federal regulations governing the Program, which provide: "The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the program" (24 CFR 982.551(k)). The Fraud Coordinator also presented other agreements and documents signed by or provided to the tenant in which the tenant acknowledged that no one can be added to the household without the prior written consent of the Authority.

### **IV. Lease Violations**

The lease violations alleged by the Fraud Coordinator, which were not specified in the Notice of Program Termination, were based on the section of the Tenancy Addendum that requires the tenant to obtain the approval of the Authority before adding a household member. The Tenancy Addendum is not signed by the tenant but provided as part of the tenant packet and is to be attached to the tenant's lease. If Mr. Hudson is found to reside in the Assisted Unit, then Ms. Hudson would be in violation of her lease. No other lease violations were indicated.

### **V. Failure to Provide True and Complete Information**

The Fraud Coordinator stated that Ms. Hudson has failed to provide true and complete information to the Authority when she failed to report the income from her job at the Payless Shoe Store and failed to disclose that Mr. Hudson was living in the Assisted Unit. She referred to the Voucher signed by the tenant and the federal regulations applicable to the Program, under which the tenant is required provide true and accurate information (24 CFR 982.551(b)(2)). If Ms. Hudson is found to have under reported her income or failed to report that Mr. Hudson had moved in with her, then she would have violated her obligation to provide true and accurate information.

### Findings

For the Authority's termination of Ms. Hudson' assistance under the Program to be upheld, it must be shown by a preponderance of the evidence either (a) that Mr. Hudson resides with Ms. Hudson or (b) that Ms. Hudson failed to report her income correctly.

As to the first issue, I do not find that a preponderance of evidence exists to prove that Mr. Hudson actually resides with Ms. Hudson. It is not unusual for Mr. Hudson to have continued using his former address for his driver's license and registration if he is employed as a trucker by a national carrier and has no fixed address of his own. In addition, the evidence shows that Mr. Hudson made a child support payment in September, 2008, to Ms. Hudson. A portion of every child support payment is deducted and paid over to the state, with the result that less than the amount of Mr. Hudson's actual payment is received by the family. It would not make sense for Mr. Hudson to continue to make payments to Ms. Hudson through Friend of the Court on this basis if he were living with the family.

Neither do I find that a preponderance of evidence exists to conclude that Ms. Hudson under reported or failed to report her income in 2008.

- The application for participation in the FSS that triggered the investigation was dated September 24, 2008. As verified by the employer, Ms. Hudson began her employment with Payless Shoe Source on September 21, 2008, or three days prior to the application, not one month as she wrote in the application. On September 29, 2008, the Authority sent Ms. Hudson the interim Household, Income, Asset and Expense Declaration, which had to be returned by October 15, 2008. On October 1, 2008, Ms. Hudson signed the interim Declaration which disclosed the new job along with every other source of income she was receiving at that time. The Authority received the interim Declaration on October 15, 2008, as evidenced by the date stamp. The Authority's Notice of Program Termination was issued on October 31, 2008, two weeks after receipt of the interim Declaration. Ms. Hudson's interim Declaration was submitted in a timely manner, and no violation of Program regulations occurred in this instance.
- The TANF income the Authority cites as being unreported did not begin until mid-November, after Ms. Hudson was notified that her participation in the Program was being terminated. As of the date of the interim Declaration on which the Authority based its termination, Ms. Hudson accurately reported that she did not receive any TANF income.
- The emergency utility assistance grant was not approved until January 20, 2009, one week prior to the hearing, and was not payable to Ms. Hudson until she verified that she had already paid the utility bills. As of the date of the interim Declaration on which the Authority based its termination, Ms. Hudson accurately reported that she did not receive this income.

- Although Ms. Hudson may have under reported the amount of her Food Assistance, the evidence is not clear on this point. Prior to the interim Declaration signed on October 1, 2008, Ms. Hudson correctly reported the amount of her Food Assistance at \$426 per month. Per the Third Party Verification with a data date of December 31, 2008, the amount of her Food Assistance had been reduced to \$395 per month. The effective date of this reduction is unknown but must have occurred sometime between September 30, 2008, and December 31, 2008. Therefore, it is cannot be concluded that when Ms. Hudson signed the interim Declaration on October 1, 2008, the amount of her Food Assistance was inaccurate, and may even have overstated the amount by \$5. In any event, the discrepancy would at the most amount to \$78 over three months. This does not meet the Authority's \$10,000 standard for termination.

With respect to the allegation of fraud, I do not find that a preponderance of evidence exists to show that Ms. Hudson's actions were fraudulent, which requires a showing of intent. A determination of fraud would require a finding by the hearing officer that Ms. Hudson under reported her income and allowed Mr. Hudson to reside in the Assisted Unit with the dishonest intention of receiving financial benefits to which she was not entitled. This does not appear to have been the case. In fact, Ms. Hudson appears to have been more scrupulous than most in reporting income and changes in her income.

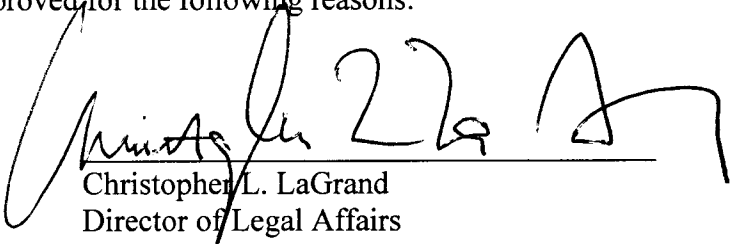
As to the allegations of lease violations and the failure to provide true and accurate information, because the evidence does not establish that Mr. Hudson resides with Ms. Hudson, or that Ms. Hudson failed to report changes in her income in a timely manner, the Authority's case cannot be made. Therefore, I recommend that Ms. Hudson's participation in the Program be reinstated.

The preceding recommendation is:

approved

disapproved for the following reasons:

Dated: 5/11/09

  
\_\_\_\_\_  
Christopher L. LaGrand  
Director of Legal Affairs