Reasonable Accommodation Policy, Procedure and Forms

for the Housing Choice Voucher Program

**Right to Reasonable Accommodation**
A person with a disability who is applying for or receiving assistance under the Section 8 Housing Choice Voucher Program (the *Program*) has the right to a reasonable accommodation under the Federal Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and the Maine Human Rights Act. A reasonable accommodation is a change or exception (waiver) to a rule, policy, procedure, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy housing or the housing assistance under the Program.

MaineHousing must inform applicants and participants in the Program that a person with a disability has the right to request a reasonable accommodation. MaineHousing will inform an applicant to the Program of this right at the tenant briefing and remind a participant in the Program of this right during the annual recertification. MaineHousing will refer to applicants and participants as *household members* in this policy and in the forms.

**Some examples of reasonable accommodation requests include:**

* A change in the way MaineHousing communicates with you
* A live-in aide that will reside in the unit
* An additional bedroom size (e.g., to accommodate medical equipment or a live-in aide)
* To increase the voucher payment standard (any increase above 120% of fair market rent requires a HUD waiver)
* To rent from a relative
* To live near services and/or caregivers
* To extend a voucher
* To reinstate a voucher
* To waive the deadline for requesting an appeal of a decision to deny or terminate housing assistance or any other decision regarding housing assistance
* To waive the deadline for requesting a review of any decision concerning a reasonable accommodation request
* To waive or change any MaineHousing policy, procedure or service regarding the Program
* To waive or change any United States Department of Housing and Urban Development (“HUD”) regulation, policy or procedure regarding the Program

A request for reasonable accommodation will be granted if (i) the person requesting the accommodation is a person with a disability as defined under applicable federal and state law (see below), (ii) the requested accommodation is necessary for the person to have equal opportunity to use and enjoy the person’s housing or housing assistance, (iii) there is a clear relationship (“nexus”) between the requested accommodation and the person’s disability, (iv) the requested accommodation does not constitute an undue financial and administrative burden on MaineHousing, and (v) the requested accommodation does not fundamentally alter the nature of the Program.

**Definition of Disability**

A household member must have a disability as defined under applicable federal and state laws. The definition of disability under state law (Maine Human Rights Act) is much broader than the definition under applicable federal laws (the Federal Fair Housing Act, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act). The following is a summary of the laws.

**Federal Law**

A person has a disability if the person has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction, and alcoholism. This definition doesn’t include any individual who is a drug addict and is currently using illegal drugs or an alcoholic who poses a direct threat to property or safety because of alcohol use [24 CFR Part 8.3, and HUD Handbook 4350.3].

**State Law**

A person has a disability if the person (1) has a physical or mental impairment that substantially limits one or more of a person’s major life activities; (2) has a physical or mental impairment that significantly impairs physical or mental health, which means having an actual or expected duration of more than 6 months and impairing health to a significant extent as compared to what is ordinarily experienced in the general population; (3) has a physical or mental impairment that requires special education, vocational rehabilitation or related services; (4) has without regard to severity unless otherwise indicated, absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn’s disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; mental retardation; multiple sclerosis; muscular dystrophy; paralysis; Parkinson’s disease; pervasive development disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury; (5) has a record of any of the physical or mental impairments described in the foregoing clauses (1) through (4); or (6) is regarded as having or is likely to develop any of the physical or mental impairments described in the foregoing clauses (1) through (4). The existence of a physical or mental disability is determined without regard to the ameliorative effects of mitigating measures such as medication, auxiliary aids or prosthetic devices.

A physical or mental disability or impairment does **not** include pedophilia, exhibitionism, voyeurism, sexual behavior disorders, compulsive gambling, kleptomania, pyromania, tobacco smoking, or any condition covered under 5 M.R.S.A. §4553, sub-§9-C . It does **not** include psychoactive substance use disorders resulting from current illegal use of drugs, although this may not be construed to exclude a person who has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use; is participating in a supervised rehabilitation program and is no longer engaging in such use; is erroneously regarded as engaging in such use, but is not engaging in such use; or in the context of a reasonable accommodation in employment is seeking treatment or has successfully completed treatment.

**Processing a Reasonable Accommodation Request**

1. The household member requests a reasonable accommodation. The person making the request does not have to use the words “reasonable accommodation.” Sometimes the need for an accommodation can present itself in the form of a complaint or through noncompliance. The request does not have to be made by the household member with the disability. It can be made by a family member, social worker or other person on behalf of the household member with the disability.
2. The MaineHousing occupancy specialist will ask the person making the request to complete MaineHousing’s Reasonable Accommodation Request form. If requested, the MaineHousing occupancy specialist will provide appropriate assistance in completing the form. Completing this form is helpful but not necessary to make a reasonable accommodation request. MaineHousing will give appropriate consideration to reasonable accommodation requests even when the person requesting the reasonable accommodation makes the request orally or does not use MaineHousing’s form.
3. The MaineHousing occupancy specialist may require a knowledgeable, qualified provider to verify that the household member has a disability and/or that there is a disability-related need for the requested accommodation. The provider must be qualified to determine whether a person has a disability and to evaluate the disability-related need for a reasonable accommodation. A qualified provider can be a physician, a psychiatrist, a licensed psychologist, a licensed nurse practitioner, a licensed social worker, a rehabilitation specialist, a non-medical service agency that provides services for persons with disabilities or other reliable third party who is in a position to know about disabilities. The provider should have current knowledge about the household member’s disability.

If verification is required, the household member for whom the reasonable accommodation request is made must give MaineHousing written authorization to obtain that verification from a qualified provider. MaineHousing will send the household member an Authorization to Provide Information Regarding Reasonable Accommodation Request form identifying the information that MaineHousing is requiring to be verified. MaineHousing will ask the household member to complete Part II of the form and sign it. Completing, signing and returning the Authorization to Provide Information Regarding Reasonable Accommodation Request form gives MaineHousing the authority to obtain the requested information from the provider identified in the form. Alternatively, a letter from a qualified provider verifying the information requested by MaineHousing in the Authorization to Provide Information Regarding Reasonable Accommodation Request form may be provided directly to MaineHousing.

Upon authorization, MaineHousing occupancy specialist will forward MaineHousing’s Verification of Information Regarding Reasonable Accommodation Request form to the provider identified by the household member in the Authorization to Provide Information Regarding Reasonable Accommodation Request form. The provider must complete, sign and return the Verification of Information Regarding Reasonable Accommodation Request form or send a written letter to MaineHousing that (i) describes the provider’s knowledge of the household member requesting the accommodation and the provider’s qualifications to verify the requested information, (ii) certifies that the household member has a disability as defined under applicable federal and state law and that the requested accommodation is necessary for the household member to use and enjoy his/her housing and housing assistance and (iii) without addressing the nature or severity of the household member’s disability or diagnosis, explains the nexus between the household member’s disability and the requested accommodation. The qualified provider’s signature and profession or title are required*.*
4. Upon receipt of all information required by MaineHousing, the reasonable accommodation request will be reviewed by MaineHousing’s FHEO Representative for the Program. All information required by MaineHousing must be provided in order for MaineHousing to approve a request. Incomplete forms will not be accepted for approval unless the required information is provided in a separate document.
5. In reviewing the request, the FHEO Representative will consider whether:
* The household member requesting the accommodation has a disability under the applicable federal and state laws;
* The requested accommodation is necessary for the household member to enjoy and use his/her housing or housing assistance;
* There is a clear nexus between the requested accommodation and the household member’s disability;
* The provider verifying any requested information is a qualified, knowledgeable provider familiar with the disability of the household member requesting the accommodation;
* The requested accommodation is an undue financial and administrative burden on MaineHousing; and/or
* The requested accommodation would require a fundamental alteration of the Program, including but not limited to a waiver or change in HUD’s regulations or policies governing the Program.
1. A decision by the FHEO Representative to approve the requested accommodation or to request additional information necessary to process the request will be made within seven (7) working days. The FHEO Representative of MaineHousing occupancy specialist will promptly notify the person requesting the accommodation of the approval or need for additional information.
2. If the request would be an undue financial and administrative burden on MaineHousing, the FHEO Representative and the MaineHousing program officer will work with the household member requesting the accommodation to identify other reasonable alternatives that effectively address the household member’s disability-related needs but are not an undue burden on MaineHousing.
3. If the FHEO Representative determines that a waiver or change of a HUD policy or regulation regarding the Program is required to grant the request, the request must be reviewed by the Equal Access Coordinator or the Equal Access Coordinator’s designee before a final decision is made. The Equal Access Coordinator or its designee will contact appropriate personnel at HUD for interpretation of the policy or regulation and, if recommended by HUD, will submit a waiver request. The Equal Access Coordinator or its designee will promptly notify the FHEO Representative and MaineHousing occupancy specialist of HUD’s decision regarding the request. The FHEO Representative or MaineHousing program officer will notify the person requesting the accommodation of the decision.
4. A recommendation by the FHEO Representative to deny a request must be reviewed by the Equal Access Coordinator or the Equal Access Coordinator’s designee before a final decision is made. Any decision by MaineHousing to deny a request for reasonable accommodation will be made within thirty (30) calendar days.
5. If a request is denied by MaineHousing or HUD for any reason, the MaineHousing occupancy specialist will send a written notice of the denial to the person requesting the accommodation (and the household member if the person requesting the accommodation is not a member of the household) explaining the reason for the denial and informing the person (and household member, if different) that the person (or the household member, if different) can request an informal review of the decision within 10 business days of receipt of the notice, which is presumed to be received by the person (and the household member, if different) within 3 calendar days of the date the letter is mailed by MaineHousing to the person (and the household member, if different) to the addresses provided by the person making the request.

**FORMS TO REQUEST A REASONABLE ACCOMMODATION ARE AVAILABLE ON MAINEHOUSING’S WEBSITE AND WILL BE MADE AVAILABLE UPON REQUEST:**

* **REASONABLE ACCOMMODATION REQUEST**
* **AUTHORIZATION TO PROVIDE INFORMATION REGARDING REASONABLE ACCOMMODATION REQUEST**
* **VERIFICATION OF INFORMATION REGARDING REASONABLE ACCOMMODATION REQUEST**

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