

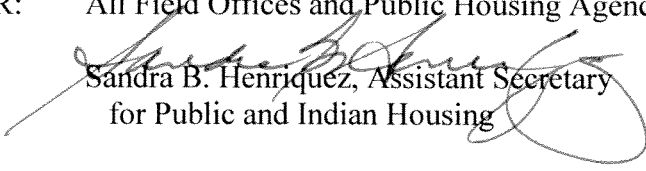


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

ASSISTANT SECRETARY FOR
PUBLIC AND INDIAN HOUSING

February 10, 2011

MEMORANDUM FOR: All Field Offices and Public Housing Agencies (PHAs)

FROM: 
Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing

SUBJECT: Medical Marijuana Use In Public Housing
and Housing Choice Voucher Programs

Overview

The Department has recently received numerous inquiries regarding the use of medical marijuana¹ in the Public Housing (PH) and Housing Choice Voucher (HCV) programs². This memorandum intends to serve as guidance for field offices and PHAs on admissions, continued occupancy, and termination policies in states that have enacted laws that allow the use of medical marijuana. Currently fourteen states (Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington) and the District of Columbia have laws that legalize medical marijuana use.

New Admissions

Based on federal law, new admissions of medical marijuana users are prohibited into the PH and HCV programs. The Controlled Substances Act (CSA) lists marijuana as a Schedule I drug, a substance with a very high potential for abuse and no accepted medical use in the United States. The Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. §13661) requires that PHAs administering the Department's rental assistance programs establish standards and lease provisions that prohibit admission into the PH and HCV programs based on the illegal use of controlled substances, including state legalized medical marijuana. State laws that legalize medical marijuana directly conflict with the admission requirements set forth in QHWRA and are thus subject to federal preemption.

Current Residents

For existing residents, QHWRA requires PHAs to establish occupancy standards and lease provisions that will allow the PHA to terminate assistance for use of a controlled substance. However, the law does not compel such action and PHAs have discretion to determine continued occupancy policies that are most appropriate for their local communities. PHAs can also determine whether to deny assistance to or terminate individual medical marijuana users, rather than entire households, for both applicant and existing residents when appropriate. PHAs have discretion to determine, on a case-by-case basis, the appropriateness of program termination of existing residents for the use of medical marijuana.

¹ The Department defines medical marijuana as marijuana which, when prescribed by a physician to treat a serious illness such as AIDS, cancer, or glaucoma, is legal under State law.

² Housing Choice Voucher programs include tenant-based vouchers and project-based vouchers.

PHAs in states that have enacted laws legalizing the use of medical marijuana must therefore establish a standard and adopt written policy regarding whether or not to allow continued occupancy or assistance for residents who are medical marijuana users. The decision of whether or not to allow continued occupancy or assistance to medical marijuana users is the responsibility of PHAs, not of the Department.

Food and Drug Administration Approved Drugs

PHAs should also be aware that the Food and Drug Administration (FDA) has approved drugs for medical uses which are comprised of marijuana synthetics, such as Marinol and Cesamet. These drugs are not medical marijuana and are legal under federal laws. These products have been through the FDA's rigorous approval process and have been determined to be safe and effective for their indications. They are therefore allowed in the public housing and voucher programs.

Thank you for your partnership and participation in the Department's programs, and for your attention to this important issue in providing quality housing and communities for all residents of public housing and voucher programs. Questions regarding this memorandum may be directed to Ms. Diane Yentel at 202-402-6051 or Diane.E.Yentel@hud.gov.