

DETERMINING RELOCATION BENEFITS FOR MULTIPLE OCCUPANTS OF ONE DISPLACEMENT DWELLING

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The topic of this article is also one of the four subjects in the next course offered through ORC Training's licensing agreement with IRWA. The name of the course is Special Topics in Replacement Housing and it covers the four following issues:

- Multiple occupants
- Persons not lawfully present in the U. S.
- Fractional or partial ownership interests
- Incidental expenses

Topic:

You are displacing a mother and son from their residence. The mother is the only one on the title and the son contributes minimally to the household. Typically we would treat them as one unit with one payment; however, the son states to us that he has no intentions of moving with his mother. Would we make the son a separate offer or would the son and mother have to decide how the single benefit was divided among the two of them? What other benefits may the son be eligible for? What if he did contribute significantly to the household? What would "significantly" be? What if the child relocated separately, but was under the age of 18? What variations may exist?

Discussion:

The mother and son would be treated as one family unit, entitled to one replacement housing payment. The fact that the son expresses a desire to move separately does not affect the Agency's obligation or responsibility to calculate a separate payment. If the mother wanted to provide her son a portion of the replacement housing payment, then that would be her choice, but the son would have no eligibility for separate relocation benefits. Under 49 CFR 24.403(a)(5) Multiple occupants of one displacement dwelling, if two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. In this case, the son may be entitled to a prorated share of the moving expense payments. For example, if they elected a schedule move, they would each be entitled to one-half of the schedule move amount.

Let's look at the variations presented in the question.

What if the son contributes significantly to the household income? Regardless of the son's contribution, it doesn't change the family or household unit. This would still be considered one household. Similarly, if a child under the age of 18 decided to relocate separately from the rest of the family unit, it would not create a separate entitlement. Under the regulation cited, the Agency may determine that two or more occupants may maintain separate households in same household, in which case they would have separate entitlements to relocation payments. The FHWA has published a Uniform Act Frequently Asked Question

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that addresses multiple occupants of one displacement dwelling. This FAQ indicates that generally all occupants should be considered one family for the purposes of payment calculations, and also provides some guidance to make the determination that separate households exist.

109. §24.403(a)(5). What is the intent of the paragraph regarding multiple occupants of one displacement dwelling?

In general, all of the occupants of a single dwelling unit should be considered one family for purposes of payment calculations. However, two or more occupants of a dwelling may maintain separate households within that dwelling. If they do, they have separate entitlement to relocation payments. The agency is responsible for determining the number of households in a dwelling based on the use of the dwelling, the relationship of the occupants, and any other information that may be obtained. The payment computation for each household should be based on the part of the dwelling that the household occupies and the space that is shared with others. An attempt should be made to locate similar comparable DSS living facilities. The record should be sufficiently documented to support the decision reached.

Some factors that an Agency may consider when making the decision that separate households exist are:

- Who pays for household expenses and are those expenses paid for separately;
- Are those living in the acquired dwelling generally held to be a single family unit;
- Is there an area of the residence that could be considered a distinct, separate living unit (e.g., walkout basement with kitchen area);
- Is there separate ingress and egress for occupants.

While it would be unusual, it may be possible in the above scenario for the Agency to consider the son as a separate 90 day tenant if it can verify that he is paying a market rent for a sleeping room type situation.

Let's change the facts somewhat. What if the mother owned the dwelling and the basement was an apartment with a separate kitchen and a separate entrance and the son was paying her rent of \$450 per month which included all utilities? Assume they could verify by cancelled checks that he had been paying this rent for the last three years (the rent had increased by 5% last year) and the Agency's review appraiser confirmed that this was only slightly below market rent. These facts would make a good case for considering the mother and son as separate households. They are paying expenses separately, the basement apartment is a distinct and separate living unit, there is a separate ingress and egress for the son and they are not sharing any part of the dwelling unit.

Note: You should check with the federal agency funding the project if you have questions about handling multiple occupants. Some agencies may have a more liberal interpretation and may be more likely to consider a situation a separate household than some of the scenarios outlined above.

For example, a woman was the fee owner of a property and was renting part of the property to her grandson. The part occupied by her grandson was a separate apartment with separate ingress and egress. The grandson was a professional gambler who also earned income as a landscaper. His income was in cash, sporadic and could not be verified. They provided cash receipts showing that he paid rent of \$400 per month, however, the receipts were questionable. Some agencies may have considered the grandmother and grandson to be one household because they were related and because the grandson's income did not support a rental payment. It may have been difficult, however, to dispute the rental receipts had the grandson appealed the decision. In this case, the funding agency indicated that the grandson should be considered a separate household entitled to a separate rental assistance payment. The agency used economic rent to calculate a payment. ■ ■ ■