

8905 PROPOSED AND FINAL DECISIONS

8905.1 The hearing officer shall, within 14 days of the hearing, make a proposed decision as follows:

- (a) Whether or not the hearing officer has jurisdiction under these regulations to hear the case;
- (b) Factual determinations relating to the individual circumstances of the participant or applicant based on a preponderance of the evidence and testimony presented at the informal hearing; and
- (c) Whether the action, inaction, or determination of DCHA is in accordance with applicable federal and local law, including applicable HUD and DCHA regulations and the HCVP Administrative Plan.

8905.2 A notice of the proposed decision shall be provided in writing by the hearing officer to the participant or applicant, and their representative, if any, with a copy to the Director of the Housing Choice Voucher Program and the counsel representing DCHA including:

- (a) A brief reasoned decision including an assessment of the factual basis and explanation of the legal reasoning in support of the decision;
- (b) If the decision involves money owed, the amount owed;
- (c) A review of the calculation of any monies owed;
- (d) The effective date of the decision;
- (e) The implementation date for any actions ordered to be taken by either of the parties;
- (f) The parties' rights to request a final decision from the Executive Director; and
- (g) The time limit and procedure for filing a request for the Executive Director to make a final decision.

8905.3 The proposed decision will become final on the tenth (10th) day following the postmark of the proposed decision unless one of the parties has submitted a written request to the Executive Director requesting the Executive Director to reconsider the proposed decision before issuing a final decision and stating the basis for such review.

8905.4 In the event of a request for a final decision by the Executive Director, the Executive Director will render a final written decision within fifteen (15) days of receipt of the request, which shall include DCHA's reasons for the final decision.

- (a) The final decision shall include notification that final decisions are not precedent setting for DCHA or the courts and cases thereafter taken to Superior Court of the District of Columbia are not an appeal of an administrative decision, are not based on the record of the informal hearing and are to be tried de novo, as if no determination had been made by DCHA and its hearing officer prior thereto.
- (b) The Executive Director may modify or set aside, in whole or in part, the decision of the hearing officer which (1) concerns a matter for which DCHA is not required to provide an informal hearing, or that otherwise exceeds the authority of the hearing officer, or (2) is contrary to applicable HUD regulations or requirements, or is

otherwise contrary to federal or local law, including the provisions of Title 14 of the DCMR and the HCVP Administrative Plan.

- 8905.5 All requests for an informal hearing, supporting documentation and a copy of the proposed and final decisions shall be retained in the participant's or applicant's file.

SOURCE: Notice of Final Rulemaking published at 49 DCR 7193, 7197-7200 (July 26, 2002); as amended by Notice of Emergency and Proposed Rulemaking published at 52 DCR 6858 (July 22, 2005)[EXPIRED]; as amended by Notice of Final Rulemaking published at 52 DCR 10181 (November 18, 2005).