

## Chapter 17

### MEDICAL MARIJUANA POLICY

#### INTRODUCTION

*According to HUD Memorandum dated February 10, 2011, “Medical Marijuana Use in Public Housing and Housing Choice Voucher Program”:*

*Marijuana, whether used as medical or recreational marijuana is categorized as a Schedule I drug under the Controlled Substance Act [21 U.S.C. § 801], 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 that prohibit admission into the HCV programs based on the illegal use of controlled substances, including state legalized medical marijuana.*

*State laws that legalized medical marijuana directly conflict with the admission requirements set forth in QWHRA and are thus subject to federal preemption.*

#### 17-I. ADMISSION [42 U.S.C. § 13661(b)(1)]

*Based on federal laws, new admission of medical marijuana users are prohibited into the HCV program.*

*The PHA has the discretion to deny assistance to individual marijuana users, rather than the entire households, when appropriate.*

##### Caribou Housing Policy (2019)

*CHA will not admit new applicants into the Section 8 HCV Program who are “currently engaged” in the use of marijuana whether it be recreational or medically.*

*Currently engaged in is defined as any use of illegal drugs during the previous twelve (12) months.*

#### 17-II. REASONABLE ACCOMMODATION

*A person seeking a reasonable accommodation to allow the use of medical marijuana that are not “individuals with a disability” [under Section 504 of the Fair Housing Act and the Americans with Disabilities Act (ADA), does not qualify for a reasonable accommodation to allow the use of a medical marijuana.*

*Federal and state nondiscrimination laws do not require PHAs to accommodate requests by current or prospective participants with disabilities to use medical marijuana.*

**Caribou Housing Policy (2019)**

*CHA will not permit the use of medical marijuana as a reasonable accommodation because such accommodations are not reasonable under the Fair Housing Act and would constitute a fundamental alteration in the nature or operations of the program (HUD Memorandum dated February 10, 2011, “Medical Marijuana Use in Public Housing and Housing Choice Voucher Program”, pg. 1-2).*

*CHA will not grant a reasonable accommodation that would allow the tenants to grow, use, otherwise possess, or distribute medical marijuana, even if in doing so such tenants are complying with state laws authorizing medical marijuana related conduct.*

**17-III. MEDICAL EXPENSES DEDUCTION**

**Caribou Housing Policy (2019)**

*Costs associated with medical marijuana are not qualified for deductions from income. Such as, but not limited to:*

- *State medical marijuana registration card*
- *Prescription medical marijuana*
- *Nonprescription/herbal marijuana*

**17-IV. CURRENT HCV PARTICIPANTS**

*For existing HCV participants, QHWRA requires PHAs to establish occupancy standards 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 continues occupancy policies.*

*PHAs in states that have enacted laws legalizing the use of medical marijuana must establish a standard and adopt written policy regarding whether to allow continued occupancy. The decision of whether to allow continued occupancy is the responsibility of the PHA.*

**Caribou Housing Policy (2019)**

*The CHA will terminate program participation of households when found to have engaged in medical marijuana while participating in the program.*

*The CHA has the discretion to terminate assistance for individual marijuana users, rather than the entire household, when appropriate.*

#### **17-V. TERMINATION OF ASSISTANCE**

*Under QHWRA's termination standards, PHAs have the discretion to terminate a HCV participant if the PHA determines the participant is illegally using a controlled substance.*

##### **Caribou Housing Policy (2019)**

*In the event that CHA becomes aware that a participant uses medical marijuana, the CHA may terminate housing assistance if it determines that such illegal use, or pattern of illegal use of any household member:*

- *Commits a criminal activity (including drug-related, and violent criminal activity)*
- *Presents a threat to the health, safety, or right to peaceful enjoyment of the premise by other residents*
- *Is in possession of a controlled substance paraphernalia, or associated item or action that is not strictly within the limits of Maine law.*

*CHA will decide whether to terminate assistance on the grounds of use of medical marijuana on a case-by-case basis.*

#### **17-VI. DEFINITION**

*Drug means a controlled substance, as defined in section 102 of the Federal Controlled Substances Act (21 U.S.C. 802), and its illegal use, as defined under federal guidelines, is prohibited. This includes medical and recreational marijuana.*

*Medical Marijuana - Medical Marijuana refers to the use of cannabis or marijuana, including constituents of cannabis, THC and other cannabinoids, a physician recommended form of medicine of herbal therapy*