Chapter 7

PORTABILITY IN SECTION 8 FSS PROGRAMS

INTRODUCTION

PHAs operating Section 8 FSS programs must be familiar with the rules and regulations regarding portability under the Section 8 program. As with the case of portability in the Section 8 program in general, the FSS family may move outside the initial PHA jurisdiction under portability procedures after the first 12 months of the FSS contract of participation [24 CFR 984.306].

In the event that an FSS family chooses to exercise portability, certain special requirements regarding the FSS program would apply. This chapter describes the obligations of the initial PHA, the receiving PHA, and the FSS family under portability, in addition to any special stipulations regarding portability in the FSS context.

This chapter contains two parts:

> <u>Part I: Portability in the FSS Program:</u> This part provides a general overview of portability in the FSS program, including the residency requirements for FSS portability and management of the contract of participation when a family moves into or from another PHA's jurisdiction.
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> <u>Part II: The Effects of Portability on FSS Regulations and Policy:</u> This part describes the specific ways in which portability affects different aspects of the FSS program, including the escrow account, program termination, loss of the FSS account, and termination of Section 8 program assistance.

PART I: PORTABILITY IN THE FSS PROGRAM

7-I.A. OVERVIEW

Portability is a statutory feature of the Section 8 program—it is included in the law. As such, PHAs operating a Section 8 FSS program need to understand the effects that portability will have on Section 8 FSS families and program operation. This part provides a general overview of portability in the FSS program, including the residency requirements for FSS portability and management of the contract of participation when a family moves into or from another PHA's jurisdiction.

7-I.B. DEFINITIONS

For the purposes of portability with regards to the FSS program, the following definitions will be used [24 CFR 982.4, 24 CFR 984.306].

- *Initial PHA* means both:
  1. A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and
  2. A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.
- *Receiving PHA* means a PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA either absorbs the family into its program, including issuing a voucher and providing rental assistance to the family, or bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher.
- *Relocating FSS Family* refers to an FSS family that moves from the jurisdiction of a PHA at least 12 months after signing its contract of participation.

7-I.C. RESIDENCY REQUIREMENTS

Families participating in a Section 8 FSS program are required to lease an assisted unit within the jurisdiction of the PHA that selected the family for the FSS program for a minimum period of 12 months after the effective date of the contract of participation. However, the initial PHA may approve a family's request to move outside its jurisdiction under portability during this period if the move is in accordance with the regulations at 24 CFR 982.353 [24 CFR 984.306(a)(1)].

> <u>EIC Policy</u>
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> EIC may approve a family's request to move outside its jurisdiction under portability during the first 12 months after the effective date of the contract of participation if the move is in accordance with the regulations for such moves at 24 CFR 982.353.

After the first 12 months of the FSS contract of participation, the FSS family may move outside the initial PHA jurisdiction under portability procedures regardless of PHA approval [24 CFR 984.306(a)(2)].

7-I.D. PORTABILITY REQUIREMENTS FOR FSS PARTICIPANTS

Receiving PHA Offers an FSS Program [24 CFR 984.306(b) and FAQ on FSS Final Rule Implementation 7/23/23, Port2]

When a port-in family is enrolling in the receiving PHA's FSS program, the receiving PHA must execute a CoP with the family for the remainder of the term of the initial CoP. If a port-in family will continue in the initial PHA's FSS program, they will continue under their initial CoP, including any modifications necessary due to their relocation [FSS FAQ Port2 July 23, 2023].

There is no timeline for the receiving PHA to execute the CoP. HUD recommends that the receiving and initial PHAs coordinate the voucher port into the receiving PHA and execution of the new CoP at the receiving PHA to minimize any lapse in the participant's progress.

> EIC Policy
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> EIC as the initial housing authority, will agree to the participants continued participation in their FSS program so long as the relocating family has demonstrated, with assistance of the FSS Coordinator, that it will be able to fulfill its responsibilities under the initial or a modified contract as its new place of residence.

The receiving PHA must enroll an FSS family in good standing in its FSS program unless it is unable to do so. If the receiving PHA is already serving the number of FSS families identified in its FSS Action Plan and determines that it does not have the resources to manage the FSS contract, and the receiving housing authority is administering and billing the voucher, the initial PHA may agree to the FSS family's continued participation in the initial PHA's FSS program.

> EIC Policy
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> EIC as the initial housing authority, will agree to the participant's continued participation in their FSS program so long as the relocating family has demonstrated, with the assistance of the FSS Coordinator, that it will be able to fulfill its responsibilities under the initial or a modified contract at its new place of residence.

When the receiving PHA does not have FSS space or resources and is absorbing the voucher and thus paying the housing assistance payments, the receiving PHA makes the decision whether to allow the family to remain in the FSS program of the initial PHA.

> EIC Policy
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> EIC as the receiving PHA, will agree to the participant's continued participation in the initial housing authority's FSS program so long as the relocating family has demonstrated, with the assistance of the FSS Coordinator, that it will be able to fulfill its responsibilities under the initial or a modified contract in the jurisdiction of the receiving housing authority.

When continued FSS participation is not possible, the initial PHA **must** clearly discuss the options that may be available to the family. Depending on the family's specific circumstances, these options include modification of the FSS contract to allow completion of that contract, locating a receiving housing authority that has the capacity to enroll the family in its FSS program, termination with FSS escrow disbursement in accordance with 24 CFR 984.303(k)(1)(iii), or termination of the FSS contract and forfeiture of escrow.

> EIC Policy
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> EIC will clearly and repeatedly discuss the options that are available to the family where continued FSS participation is not possible. Depending on the family's specific circumstances, these options may include modification of the FSS contract to allow completion of that contract, locating a receiving housing authority that has the capacity to enroll the family in its FSS program, termination with FSS escrow disbursement, requesting a regulatory waiver to allow disbursement of the escrow, or termination of the FSS contract and forfeiture of escrow.
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> The family will be required to accept or reject available options in writing after discussion

Receiving PHA Does Not Administer an FSS Program [24 CFR 984.306(c)]

If the receiving PHA does not offer an FSS program and the receiving PHA is administering and billing the voucher, the FSS family may continue participation in the FSS program of the initial housing authority. The initial PHA must clearly discuss all of the options that may be available to the family. These may include, but are not limited to, remaining in the FSS program of the initial PHA, modification of the FSS contract, locating a receiving PHA that administers an FSS program, termination of the FSS contract with FSS escrow disbursement, or termination of the FSS contract and forfeiture of escrow.

> EIC Policy
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> EIC will, as stated above, clearly discuss the options that may be available to the family where continued FSS participation is not possible. Depending on the family's contact specific circumstances, these options include modification of the FSS contract, locating a receiving housing authority that has the capacity to enroll the family in its FSS program, termination with FSS escrow disbursement in accordance with 24 CFR 984.303(k)(1)(iii), or termination of the FSS contract and forfeiture of escrow.
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> The family will be required to accept or reject available options in writing after discussion.

If the receiving PHA does not offer an FSS program and the receiving PHA is absorbing the voucher, the FSS family will not be able to continue participation in the FSS program. The initial PHA must clearly discuss all of the options that may be available to the family. These may include, but are not limited to, modification of the FSS contract to allow completion of the contract, locating a receiving PHA that administers an FSS program, termination of the FSS contract with FSS escrow disbursement, or termination of the FSS contract and forfeiture of escrow.

> <u>EIC Policy</u>
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> EIC as the initial housing authority, will clearly, and repeatedly, discuss all of the options that may be available to the family where continued FSS participation is not possible. Depending on the family's contract specific circumstances, these options include modification of the FSS contract to allow completion of the contract, locating a receiving housing authority that has the capacity to enroll the family in its FSS program, termination of the FSS CoP with FSS escrow disbursement in accordance with 24 CFR 984.303(k)(1)(iii), requesting a regulatory waiver to allow disbursement of the escrow, or termination of the FSS contract and forfeiture of escrow.
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> The family will be required to accept or reject available options in writing after discussion.

A chart summarizing portability impact on an FSS family follows.

PORTABILITY FSS IMPACT ON FSS FAMILY

Family FSS Status		PHA FSS Status	Port Scenario	FSS Impact	PHA or HUD Decides
1.	FSS family ports	Receiving PHA has FSS program Initial PHA has FSS program	Billed	Family may continue participation in initial PHA's FSS program or Family may enroll in receiving PHA's FSS program	Determined by the initial PHA. Determined by the receiving PHA.
2.	FSS family ports	Receiving PHA has FSS program Initial PHA has FSS program	Absorbed	Family may enroll in receiving PHA's FSS program or Family may continue participation at initial PHA's FSS program.	Determined by the receiving PHA. Determined by the receiving PHA. *Agreement from the receiving PHA is needed because they would be responsible for most of the FSS tasks under this scenario.
3.	FSS family ports	Receiving PHA does not have FSS program Initial PHA administers FSS program	Billed	Family may continue participation in initial PHA's FSS program	First, determined by the initial PHA. Then, receiving PHA must agree. *The receiving PHA would be responsible for submitting the FSS information for the family into IMS/PIC. Receiving PHA's determination must be based on an undue financial or administrative hardship such as the cost of adding an FSS module to their existing systems. If continued participation is agreed to by the PHAs, the initial PHA must provide the receiving PHA with timely and complete FSS addendum information and the receiving PHA is responsible for timely and accurate submission of the FSS information into IMS/PIC.
4.	FSS family ports	Receiving PHA does not have FSS program Initial PHA administers FSS program	Absorbed	Family may not continue participation in initial PHA's FSS program	Determined by HUD. The receiving PHA would be responsible for managing escrow and the receiving PHA does not administer an FSS program.

Single Escrow Account

If the receiving PHA absorbs the voucher and pays the housing assistance payment from their HAP, the receiving PHA will manage the escrow account.

If the receiving PHA administers and bills the initial PHA for the housing assistance payments, the initial PHA will manage the escrow account.

Single Contract of Participation

If the FSS family enrolls in the receiving PHA's FSS program, the receiving PHA will enter a new contract with the FSS family for the term remaining on the contract with the initial PHA. The initial PHA will end its contract with the family.

If the FSS family remains in the FSS program of the initial PHA, pursuant to this section, the contract executed by the initial PHA will remain as the contract in place.

Termination of FSS contract and Forfeiture of Escrow Account [984.306(e)]

If an FSS family relocates to another jurisdiction and is unable to fulfill its obligations under the contract, including any modifications, the PHA, which is a party to the contract, **must terminate the FSS family from the FSS program**. The family's FSS escrow account will be forfeited.

Termination of FSS program participation and forfeiture of FSS escrow must be used only as a last resort after the PHA determines, in consultation with the family, that the family would be unable to fulfill its obligations under the contract after the move, that locating another receiving housing authority with a FSS program is not possible, that the current contract cannot be modified to allow for completion prior to porting, and that the current contract cannot be terminated with FSS escrow disbursement. When termination is the only option, the PHA must clearly notify the family that the move will result in the loss of escrow funds. The PHA must follow its policy for clearly notifying the FSS family of the forfeiture.

7-I.E. NEW FSS ENROLLMENT INTO RECEIVING PHA'S FSS PROGRAM

Administering and Billing of the Voucher

If a non-FSS family ports and the receiving PHA bills the initial PHA, the receiving PHA may, consistent with the receiving PHA's FSS enrollment policies, enroll a family that was not an FSS participant at the initial PHA into its FSS program if, and only if, the initial PHA manages an FSS program and agrees to such enrollment. If the receiving PHA bills the initial PHA, but the initial PHA does not manage an FSS program, the family may not enroll in the receiving PHA's FSS program.

> EIC Policy
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> EIC will clearly discuss the options that are available to the family where continued FSS participation is not possible. Depending on the family's specific circumstances, these options include modification of the FSS contract, locating a receiving a housing authority that has the capacity to enroll the family in its FSS program, termination with FSS escrow disbursement, or termination of the FSS contract and forfeiture of escrow.

Absorption of the Voucher

If the receiving PHA absorbs the family into its Section 8 program, the receiving PHA may, consistent with the receiving PHA's FSS enrollment policies, enroll a family that was not an FSS participant at the initial PHA into its FSS program.

FSS Participation Status:	***PHA's FSS Status:***	***Port Scenario:***	***FSS Impact:***
FSS family ports	Receiving PHA does not administer FSS Initial PHA administers FSS	Absorbed	Family may not continue participation in initial PHA's FSS program because the receiving PHA would be responsible for managing escrow and the receiving PHA does not administer an FSS program.
Non-FSS family ports	Initial PHA administers FSS Receiving PHA administers FSS	Billed	Family may enroll in receiving PHA's FSS program if the initial PHA agrees. Initial PHA agreement is needed because they would be responsible for managing the FSS escrow account.
Non-FSS family ports	Initial PHA administers FSS Receiving PHA administers FSS	Absorbed	Family may enroll in receiving PHA's FSS program as determined by the receiving PHA.
Non-FSS family ports	Initial PHA does not administer FSS Receiving PHA administers FSS	Billed	Family may not enroll in receiving PHA's FSS program because the initial PHA would be responsible for managing the FSS escrow account and the initial PHA does not administer an FSS program.
Non-FSS family ports	Initial PHA does not administer FSS Receiving PHA administers FSS	Absorbed	Family may enroll in receiving PHA's FSS program as determined by the receiving PHA.

PART II: REPORTING

7-II.A. OVERVIEW

Each PHA that conducts an FSS program shall submit to HUD, in the form prescribed by HUD, a report regarding its FSS program.

7-II.B. CONTENTS OF THE FSS REPORT [24 CFR 984.401]

The report submitted to HUD must include a description of the activities carried out in the FSS program; a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency, including the number of families enrolled and graduated and the number of established escrow accounts and positive escrow balances; a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and any recommendations by the PHA or the appropriate local Program Coordinating Committee for legislative or administrative action that would improve the FSS program and ensure the effectiveness of the program. The detailed example of the FSS Annual Report Action Plan is available at HUD's FSS Resource page, which can be located by searching "HUD FSS" on any browser.

7-II.C. FAMILY SELF-SUFFICIENCY GRANT PROGRAM REVIEW PHA SELF-ASSESSMENT

HUD provides a detailed checklist for PHAs to conduct their own self-assessment of their FSS program. The form is administered by the local field office and allows each PHA to gather concrete and comprehensive data covering aspects of the program from FSS Action Plans and Composite Scores through FSS program size, participants, and graduations to reductions in FSS grants and current Memoranda of Agreement with community partners. The detailed example of the FSS Self-Assessment is available at HUD's FSS Resource page, which can be located by searching "HUD FSS" on any browser.