

MEDICAL MARIJUANA POLICY

THE WILKES-BARRE HOUSING AUTHORITY (WBHA) HEREBY SETS FORTH THE FOLLOWING POLICY REGARDING MEDICAL MARIJUANA.

THE CONTROLLED SUBSTANCES ACT (CSA) CATEGORIZES MARIJUANA AS A SCHEDULE 1 SUBSTANCE AND, THEREFORE, THE MANUFACTURE, DISTRIBUTION, OR POSSESSION OF MARIJUANA IS A FEDERAL CRIMINAL OFFENSE. BECAUSE THE CSA PROHIBITS ALL FORMS OF MARIJUANA USE, THE USE OF "MEDICAL MARIJUANA" IS ILLEGAL UNDER FEDERAL LAW EVEN IF IT IS PERMITTED UNDER STATE LAW.

THE WBHA WILL CONTINUE TO EXERCISE ITS DISCRETION UNDER:

1. ITS ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP) AND 24 CFR SECTION 966.4 (L) (5) (VII) (B) AND (C) IN DECIDING TO TERMINATE A TENANT FOR ILLEGAL DRUG USE INCLUDING MEDICAL MARIJUANA AS SET FORTH IN THE PENNSYLVANIA MEDICAL MARIJUANA ACT (ACT); AND
2. ITS ADMINISTRATIVE PLAN AND 24 CFR SECTION 982.552 (C) (2) (I) IN DECIDING TO TERMINATE ASSISTANCE FOR ILLEGAL DRUG USE INCLUDING MEDICAL MARIJUANA AS SET FORTH IN THE ACT;

NEW ADMISSIONS

THE QUALITY HOUSING AND WORK RESPONSIBILITY ACT (QHWRA) OF 1998 (42 U.S.C. 13661) REQUIRES PUBLIC HOUSING AUTHORITIES (PHAs) TO DENY ADMISSION TO ANY HOUSEHOLD WITH A MEMBER WHO THE PHA DETERMINES IS, AT THE TIME OF APPLICATION FOR ADMISSION, ILLEGALLY USING A CONTROLLED SUBSTANCE AS THAT TERM IS DEFINED BY THE CSA.

CURRENT RESIDENTS

CURRENT RESIDENTS USING MEDICAL MARIJUANA ARE NOT SUBJECT TO AUTOMATIC TERMINATIONS. QHWRA PROVIDES THE WBHA WITH THE DISCRETION TO CONSIDER ALL CIRCUMSTANCES AND DETERMINE ON A CASE-BY-CASE BASIS WHEN IT IS APPROPRIATE TO TERMINATE ASSISTANCE. THE WBHA WILL EXERCISE ITS DISCRETION BY CONSIDERING THE FOLLOWING FACTORS:

1. RESIDENTS WHO WERE ADMITTED TO THE PUBLIC HOUSING (PH) PROGRAM PRIOR TO THE EFFECTIVE DATE OF PENNSYLVANIA'S MEDICAL MARIJUANA ACT (ACT) (APRIL 17, 2017) WHO CAN DEMONSTRATE DOCUMENTARY EVIDENCE THAT A VALID MEDICAL MARIJUANA CARD WAS ISSUED TO THE PARTICIPANT.
2. COMPLIANCE WITH WBHA'S SMOKE FREE POLICY
3. COMPLIANCE WITH THE RULES AND REGULATIONS OF THE PENNSYLVANIA'S MEDICAL MARIJUANA ACT
4. ANY AND ALL OTHER FACTORS IT DEEMS RELEVANT IN MAKING THE DECISION TO TERMINATE ASSISTANCE

BOARD APPROVED 8/15/18

THE WBHA FULLY SUPPORTS AND ADHERES TO THE FAIR HOUSING ACT (FHA), SECTION 504 OF THE REHABILITATION ACT (SECTION 504), AND TITLE II OF THE AMERICAN WITH DISABILITIES ACT (ADA). HOWEVER "ILLEGAL DRUG USE" UNDER SECTION 504 AND THE ADA IS DETERMINED EXCLUSIVELY BY REFERENCE TO THE CSA WHICH INCLUDES MARIJUANA. UNDER FEDERAL LAW, THE USE OF MEDICAL MARIJUANA IS ILLEGAL AND, THEREFORE, DOES NOT QUALIFY AN INDIVIDUAL FOR A REASONABLE ACCOMMODATION.

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