

PART #4: Overcoming Denials

Here is the first thing to remember when your client is denied access to housing: you are helping your client access a resource as basic as health care; don't give up without a fight!

Housing authorities and providers are the 'gatekeepers' that stand between your client and affordable housing resources. Often, you and your client do not have the same interests as they do. Knowing that, assume there will be roadblocks and spend your energy helping your client past those barriers.

Strategies for appealing a denial:

- ◆ Never take “No” or “That’s not possible” or “That’s the way it is” as a final answer, even if it might be true. There is at least a chance that either the housing authority or provider is applying the wrong rule in the wrong situation or they are applying the right rule incorrectly.
- ◆ Always ask for denial decisions in writing. Denials should be dated and the reason should be stated. No matter what the authority or provider states verbally (in a meeting or on the phone), use the written reason for denial as the basis for any appeal. Providers and housing authorities can be guilty of ‘moving the finish line’ on a client during the denial/appeal process. Reasons for denial should be in writing and only directly connected to a program regulation or documented housing authority policy. Being able to receive a denial letter quickly is another important reason to make sure that the housing provider has a current, correct mailing address for your client.
- ◆ Appeal processes always have response deadlines and procedures that your client must follow. These deadlines and the appeal process should be described in the written denial letter. Also, be aware that this works both ways. Help your client hold the housing authority or provider to the required process.
- ◆ Know what specific regulations and/or program policies govern the program for which your client has been denied. Ask the authority to provide you with a written copy of the regulations or policies that they used to deny your client. Create a library at your agency of up-to-date regulations for different federal and state programs. Consult those regulations to see if the program was acting properly. Authorities can easily misapply immigration, disability, criminal record guidelines. Consult your local legal aid for detailed information regarding regulations and fair housing law.
- ◆ Use the appeal process to present a fuller picture of your client’s circumstances. Remember, the housing provider usually has very little knowledge of your client when they issue a denial, just what was on the application and in any background reports. Use the appeals process as an opportunity to re-define their impression of your client.
- ◆ Know what a housing provider can NOT ask from your client. Programs or housing authorities can NOT ask any details about the nature of your client’s disability, even if the client must be disabled to be eligible for a unit (unless the program requires a specific condition, such as HIV+). Applicants to “disabled” housing only have to document generally that their condition meets the eligibility definition.

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- ◆ Programs can require clean time documentation of your client, but only to ensure that the client is not ‘currently’ consuming illegal substances. Alcohol consumption is legal in all 50 states; requiring sobriety is probably illegitimate, except as a possible predictor of future tenant behavior.
- ◆ Take the appeals process as far as you can, if possible. Different programs have different appeal procedures but all have ‘higher authorities’ that you and your client can appeal to. Use these additional appeals to present as full of a picture as possible of your client and their situation.
- ◆ If you do not know the answer, ask for help. Legal Aid agencies, Technical Assistance agencies, and other advocates are all good resources for help.

Criminal History Denials

Once you’ve been notified of a denial due to criminal record, look up the regulations *for that specific program*, to check if the regulations were enforced correctly. Different funding sources have different guidelines. Housing authorities make mistakes!

Federal Public Housing, Section 8 Project-Based, and Section 8 Tenant-based Housing have the strictest regulations **requiring** denials due to criminal record:

- ◆ 3-year bar if you’ve been evicted from federal housing for drug-related activity
- ◆ Permanent bar for methamphetamine production while residing in federal housing
- ◆ Permanent bar for life-time sex offender registrants
- ◆ Denial for “current users” of illegal drugs or persons who have a “pattern” of drug or alcohol abuse

For these programs, a housing authority or provider *may* but is *not required* to deny an applicant based on: other drug-related activity, violent criminal activity, other criminal activity that might threaten the safety of other residents and/or property management. For these optional denials, there is no clear time limit for how far back a provider can “look” into a client’s history before considering them.

These programs have NO built in exclusions based on criminal history:

- ◆ Supportive Housing Program
- ◆ Shelter Plus Care
- ◆ Emergency Shelter Grant
- ◆ HOPWA

Review ‘Denial of Assistance Rules At A Glance’