



BUILDING COMMUNITY, PEOPLE, AND PARTNERSHIPS

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3:57 PM

KCHA Program Participant
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RE: Marijuana Use in Federally-subsidized Housing

On June 25, 2019, Governor J.B. Pritzker signed a bill into law that legalized the recreational use of marijuana, which goes into effect on January 1, 2020. Prior to this, on August 1, 2013, former Governor Pat Quinn signed the Compassionate Use of Medical Cannabis Act which basically legalized the sale and use of marijuana products for medicinal use. With recreational use of marijuana set to be legal in the State of Illinois, the Knox County Housing Authority would like to clarify the provisions of the Illinois laws and the federal requirements regarding the topic.

The following are the basic provisions of the Illinois law:

- Use is restricted to adults over the age of 21
- Possession limits:
 - 30 grams of marijuana plant material
 - Edibles totaling no more than 500 mg of THC
 - 5 grams of cannabis concentrate product
- Only licensed medical marijuana patients may grow plants at home
- Only licensed dispensaries will be able to sell marijuana
- Use of cannabis is prohibited:
 - In any public place, such as sidewalks, streets, and parks
 - In any motor vehicle
 - On school grounds
 - Near anyone under the age of 21
 - Near on-duty police officer, firefighters, correctional officers, and school bus drivers

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) requires agencies to develop policies that 1) deny admission to users of controlled substances to any of its programs, and 2) establish occupancy standards and lease provisions that will allow the public housing agency (PHA) to terminate tenancy and/or assistance for participants engaging in the illegal use of a controlled substance. For lease and policy purposes, controlled substances are identified in the Controlled Substances Act, the statute establishing federal U.S. drug policy under which the manufacture, possession, use, and distribution of certain substances is regulated. The legislation created five schedules (classifications),

with varying qualifications for a substance to be included in each. Two federal agencies, the Drug Enforcement Administration (DEA) and the Food and Drug Administration (FDA), determine which substances are added to or removed from the various schedules. Marijuana is classified as a Schedule I substance, which is defined as a substance with a very high potential of abuse and no accepted medical purpose in the United States. Despite medical and recreational use of marijuana having been legalized in the State of Illinois, federal law preempts, or takes precedence over, state law pertaining to federal programs and the expenditure of federal funds.

When discussing marijuana use in public housing programs, it's important to note the difference between recreational use and medical use, as federal guidance differs for each. Recreational use refers to the intentional consumption of cannabis with the purpose to get "high" for enjoyment. Medical use refers to the use of cannabis products to treat for medical conditions such as glaucoma, muscle spasms, pain management, and nausea control.

As required by QHWRA, **marijuana is a prohibited substance on federally-subsidized premises**. This is a federal regulation, and housing authorities are required to abide. Thus, recreational possession, use, distribution, or manufacture of any cannabis product is prohibited on federally-subsidized premises. That means public housing residents and housing choice voucher program participants will be prohibited from recreationally using, possessing, manufacturing, or distributing cannabis products in their assisted unit or anywhere on federally-subsidized premises. Program participants will be allowed to use, possess, manufacture, or distribute cannabis products in accordance with state law and agency policy *away from* federally-subsidized premises. The term "federally-subsidized premises" refers to any apartment, complex, development, or other premises that are federally-funded. If a program participant violates this policy they will be subject to automatic termination of tenancy/assistance.

Federal guidance provides PHAs insight into how to implement policies and procedures concerning medical marijuana use in federally-subsidized housing. In a memo dated January 20, 2011, HUD advised that – by definition – current users of illegal controlled substances (including marijuana) are not covered under the Fair Housing Act, the Americans with Disabilities Act, or Section 504 of the Rehabilitation Act of 1973. Thus, PHAs are not able to grant a reasonable accommodation to residents seeking to use medical marijuana pursuant to state law. Additionally, in a memo dated February 10, 2011, HUD reiterated the requirements of QHWRA which requires agencies to have policies that deny/terminate assistance to users of controlled substances. PHAs were also reminded, in the latter memo, that QHWRA does not compel termination; rather it provided agencies discretion in deciding whether or not to terminate existing residents for engaging in the use of medical marijuana. Per HUD, "the decision is the responsibility of the PHAs, not of the Department." As such, and per federal guidelines, the KCHA will continue to deny admission to its programs anyone who is currently engaged in the use of medical marijuana. Considering the discretion afforded to us by HUD, the KCHA will not automatically terminate assistance for lawful and authorized medical marijuana users. The KCHA will consider the circumstances surrounding the case prior to making a decision to terminate assistance. However, if medical marijuana is being used in a manner that is inconsistent with state law and agency policy, the user will be subject to automatic termination of your lease/voucher. If you are a lawful medical marijuana user, and would like to use the products in your federally-subsidized unit, you'll need to contact your property/program manager first and follow the steps required in the Medical Marijuana Use Policy *prior to* using or possessing said marijuana. Failure to do so will constitute a lease violation, and could lead to termination of your assistance.

The public housing lease, the PH Admissions and Continued Occupancy Policy (ACOP), and the Housing Choice Voucher Program Administrative Plan (Admin Plan) have been updated and are posted for review and comment. Additionally, the Medical Marijuana Use Policy has been revised and is also posted for review and comment. These policies and provisions become effective on January 1, 2020.

While federal law prohibits marijuana use and possession in federally-subsidized housing, the Knox County Housing Authority is working to educate and inform our residents so they understand all applicable laws related to cannabis and federally-funded housing. The KCHA will work with city, county, and state officials as rules and regulations are developed in accordance with existing state and federal laws in order to ensure a safe and responsible implementation of legalized cannabis in Knox County, Illinois.

Should you have any further questions, please do not hesitate to contact your program or property manager, or the Executive Director.

Respectfully,



Derek B. Antoine
Executive Director
Knox County Housing Authority