

# **Housing Choice Voucher Updates Regarding Eligibility, Income and Rent**

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# **HCV Housing Program Updates**

**Streamlining Regulations for Public  
Housing, Housing Choice Voucher, and  
Community Planning and Development  
Programs**

## Rule Changes

- Consistent with statutory direction, this final rule completes the process to codify in regulation the statutory changes made to the 1937 Act by the 2014 Appropriations Act and to solicited comment on HUD's implementation of these changes through the published notices.

# Rule Making Changes

- Final changes to streamline regulatory requirements pertaining to certain elements of the Housing Choice Voucher (HCV), Public Housing (PH), and various multifamily housing (MFH) rental assistance programs; to reduce the administrative burden on public housing agencies (PHAs) and MFH owners; and to align, where feasible, requirements across programs.
- One of the final changes would also affect the HOME Investment Partnerships program, Continuum of Care program, and the Housing Opportunities for Persons With AIDS (HOPWA) program which are administered by HUD's Office of Community Planning and Development.

# Statutory Changes Early Notices

- PIH 2013-03
- PIH 2013-26
- Flat Rent PIH Notice
- Utility Allowance Notice
- Biennial Inspection Notice
- Etc.

# Programs Impacted by the Notice

- *PH and HCV Program*
- *Project-Based Section 8 (New Construction, State Agency-Financed, Substantial Rehabilitation, Rural Housing Services, Loan Management Set-Aside, and Property Disposition Set- Aside).*
- *Section 8 Moderate Rehabilitation.*
- *Rent Supplement Program.*
- *Section 202 Supportive Housing for the Elderly (including PAC and PRAC).*
- *Section 811 Supportive Housing for Persons with Disabilities (including PRAC and PRA).*
- *Section 235.*
- *Section 236.*
- *Section 221.*
- *HOME and CDBG*

# Verification of SSN at Admission Exception

- For PH, HCV and MFH
- Except as provided in the regulations, if the PHA determines that the assistance applicant is otherwise eligible to participate in a program, the assistance applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide the documentation to verify the SSN of each member of the household.

# SSN for Admissions

- If a child under the age of 6 years was added to the assistance applicant household within the 6-month period prior to the household's date of admission (or, for the HCV program, the date of voucher issuance), the assistance applicant may become a participant, so long as the documentation required is provided to the PHA within 90 calendar days from the date of admission into the program (or, for the HCV program, the effective date of the Housing Assistance Payment contract).

## **SSN at Admission**

- The PHA must grant an extension of one additional 90-day period if the PHA determines that, in its discretion, the assistance applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the assistance applicant.

# SSN for Admissions

- If the applicant family fails to produce the documentation required within the required time period, the PHA must follow the provisions of the regulations- which includes termination of the assistance

# Mixed Family Proration of Assistance

- HCV- Process for proration of assistance did not change
- Public Housing proration of assistance changed

## **New Definition of Extremely-low Income- Used for Income Targeting**

- Extremely Low-income Family is the higher of:
  - The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or

## Definition of Extremely Low-income continued

- ❖ Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

# Revised Student Rule Provisions

- Only impacts the HCV Program under the student rule provisions
- Eligibility under the student rule did not change
- The change is only in the calculation of income used under the student rule

## **Exclusion of Mandatory Education Fees from Income- Student Rule Provisions**

- Current regulations provide that education assistance in excess of amounts needed for tuition is to be counted as income for the purposes of determining whether an individual is eligible to receive assistance.
- However, in recent years, appropriations acts have also excluded from income amounts needed to pay required fees charged to students as part of a growing trend among institutions of higher education moving from a traditional tuition-only structure to a structure of tuition and fees.
- Fees often include, but are not limited to, student service fees, student association fees, student activity fees, and laboratory fees.

## Fees Included as Tuition

- HUD is amending the definition of income with respect to higher education costs pursuant to the recent statutory changes.
- HUD believes that including many of these fixed fees within the definition of tuition, in accordance with statutory instructions in recent years, will increase opportunities for its participants to further their education.

# Student Ineligibility Provisions

- No assistance shall be provided under Section 8 to any individual who is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the U.S. military; is unmarried; does not have a dependent child; **is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005,** and is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under Section 8 of the 1937 Act.

# Student Ineligibility Common Questions

- Does the final rule apply to public housing?
- Does the final rule apply to students that currently reside with parents in the HCV Program?
- Does the rule also apply to part-time students?
- What does the rule mean?
- Does the rule allow for prorated assistance?
- Let's review HUD's responses to these questions and more by looking at the tables.

# What ifs ?- Eligibility for Assistance

- College Student
  - Veteran
  - 22 years old
  - Single
  - No dependents
  - Lives in apartment by campus, but parents not living with the student are over-income
- Are they eligible?

# What ifs ?- Eligibility for Assistance - continued

- Community College
  - 21 years old
  - Non-veteran
  - Unmarried
  - 1 dependent child
  - Student is income eligible, but one of the parents not living with the student family is over-income for Section 8
- Are they eligible?

# What ifs ?- Eligibility for Assistance - continued

- Higher Education Technical Trade School
  - 24 Years of Age
  - Non-veteran
  - Does not have a dependent child
  - Unmarried
  - Is individually eligible and wants to live separately from the parents, but parents are not eligible
    - Parents are not on the application
- Are they eligible?

# What ifs ?- Eligibility for Assistance - continued

- College Student
  - 20 years of age
  - Not a veteran
  - Is unmarried
  - Does not have a dependent child
  - Is income eligible and parents living in another state are below very low income levels for the area
- Are they eligible?

## New Income Requirement for HCV Higher Education Student

- For Section 8 Programs **only** and as provided under the restrictions on assistance to students enrolled in institutions of higher education, any assistance, in excess of amounts received for tuition **and fees**, that an individual receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education, shall be considered income to the individual, except the financial assistance described in this paragraph is not considered income for persons over the age of 23 with dependent children.

## **Income Exclusion for Higher Education Student Loans**

- For purposes of income inclusions, “financial assistance” does not include loan proceeds for the purpose of determining income

# What ifs ?- Determination of Income

- College Student
  - Veteran
  - 22 years old
  - Single
  - No dependents
  - Lives in apartment by campus, but parents not living with the student are over-income
- Source of Income
  - Higher Education Grant- \$20,000 per year
  - Tuition – \$6,000 per year
  - Fees- \$500
- What is the Annual Income?

# What ifs ?- Determination of Income - continued

- Community College
  - 24 years old
  - Non veteran
  - Unmarried
  - 1 dependent child
  - Student is income eligible, but one of the parents not living with the student family is over-income for Section 8
- Higher Education- \$10,000
- Private Sources (parents)- \$10,000
- Tuition Expense is \$6,000 and Fees \$400
- What is the Annual Income?

# What ifs ?- Determination of Income - continued

- Higher Education Technical Trade School
  - 24 Years of Age
  - Non-veteran
  - Does not have a dependent child
  - Unmarried
  - Is individually eligible and lives separately from the parents, but parents are not eligible. Parents are not a participant in HCV Program
  - Source of Income
    - Student Loan of \$6,000 per year
    - Grant from the Technical School- \$5,000 per year
    - Tuition is \$3,000 per year and fees \$300 per year
  - What is the Annual Income?

# What ifs ?- Determination of Income - continued

- College Student
  - 20 years of age
  - Not a veteran
  - Is unmarried
  - Does not have a dependent child
  - Is income eligible and parents living in another state are below very low income levels for the area
- Source of Income
  - Educational Scholarship from Higher Education Act of 1965 for \$20,000
  - Parents contribution of \$3,000 per year
- Tuition and fees are waived by the University
- What is the Annual Income?

# Streamlining Annual Reexaminations- PH and HCV

- The final rule allows for **streamlined income** for any fixed source of income, even if a person or a family with a fixed source of income also has a non-fixed source of income.
- The final rule requires that, upon admission to a program, third- party verification of all income amounts must be obtained for all family members, and a full reexamination and redetermination of income must likewise be performed every 3 years

# Streamlining Income

- In the interim, a streamlined income determination may be performed for a family member with a fixed source of income by applying to a previously determined or verified source of income a cost of living adjustment (COLA) or interest rate adjustment specific to each source of fixed income.

# Streamlined Annual Reexamination

- The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation.
- In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

# Streamlined Annual Reexamination

- Rule applies to:
  - PH
  - HCV TBV and PBV
  - MFH
  - Section 8 – other than mod rehab
  - 202/8711
- Does not apply to
  - Rent Supplement
  - Section 236 and 221(d)(3)

# Streamlining Income Determination

- For any family member with a fixed source of income, an owner may elect to determine that family member's income, as required by the regulations, by means of a streamlined income determination.

# Streamlining Income Determination

- A streamlined income determination must be conducted by applying, for each fixed-income source, the verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount

# Family Member on Fixed Income

- “Family member with a fixed source of income” is defined as a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources:

# Streamlined Income Determination

- Social Security, Supplemental Security Income, Supplemental Disability Insurance;
- Federal, state, local, or private pension plans;
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest

# Streamlined Income Determination

- An owner must use a COLA or current rate of interest specific to the fixed source of income in order to adjust the income amount.
- The owner must verify the appropriate COLA or current rate of interest from a public source or through tenant-provided, third party– generated documentation

# Streamlined Income Determination

- ❖ If no such verification is available, then the owner must obtain third-party verification of income amounts in order to calculate the change in income for the source.

# Streamlined Income Determination

- For any family member whose income is determined pursuant to a streamlined income determination, the PHA must obtain third-party verification of all fixed-income amounts every 3 years.
- Other income for each family member must be determined pursuant current regulations

# Streamlined Annual Reexamination

- HUD has issued separate regulations of families on families with 90% or more of their income from fixed sources

# Earned Income Disallowance

- PH and HCV
- Ultimately, the only change to the existing regulation adopted in the final rule is that the benefit now applies for a straight 24-month period, with a clear start date and end date, irrespective of whether a family maintains continual employment during the 24-month period.

# Earned Income Disallowance

- PHAs and grantees are no longer obliged to track employment starts and stops, but only the start date, the 12-month date (on which the amount of the disregard may change from 100 percent to not less than 50 percent of earned income), and the 24-month (end) date.

# Earned Income Disallowance

- For families enrolled and participating in EID prior to the effective date of this regulation, the previous requirements will continue to apply.
  - Effect of changes on currently participating families.
  - Families eligible for and participating in the disallowance of earned income prior to May 9, 2016 will continue to be governed by the 48 month window of opportunity in effect as it existed immediately prior to May 9, 2016.

# Family Declaration of Assets Under \$5,000

- For a family with net assets equal to or less than \$5,000, a PHA may accept, for purposes of recertification of income, a family's declaration that it has net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration.

# Family Declaration of Assets Under \$5,000

- The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.
- A PHA must obtain third-party verification of all family assets every 3 years.

# Utility Reimbursements

- Optional policy for PHAs in HCV and PH
- The PHA may elect to establish policies regarding the frequency of utility reimbursement payments for payments made to the family

# Utility Reimbursements

- The PHA will have the option of making utility reimbursement payments not less than once per calendar-year quarter, for reimbursements totaling \$45 or less per quarter.
- In the event a family leaves the program in advance of its next quarterly reimbursement, the PHA must reimburse the family for a prorated share of the applicable reimbursement.
- PHAs exercising this option must have a hardship policy in place for tenants

# Utility Reimbursements

- If the PHA elects to pay the utility supplier, the PHA must notify the family of the amount of utility reimbursement paid to the utility supplier.

# Changes to the Inspection Protocol for HCV Program

- Allows for Biennial Inspections
- The PHA may not charge the family for an initial inspection or re-inspection of the unit.
- The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit.

# Reasonable Fee for Re-inspection

- The PHA may establish a reasonable fee to owners for a re-inspection if an owner notifies the PHA that a repair has been made or the allotted time for repairs has elapsed and a reinspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing pursuant to § 982.404(a) was not corrected.

## Use of Fees

- The owner may not pass this fee along to the family.
- Fees collected will be included in a PHA's administrative fee reserve and may be used only for activities related to the provision of Section 8 Tenant-Based Rental Assistance.

# 24 Hour Inspection and Repairs

- If a participant family or government official reports a condition that is life-threatening (*i.e.*, the PHA would require the owner to make the repair within no more than 24 hours in, then the PHA must inspect the housing unit within 24 hours of when the PHA received the notification.

# Non-life Threatening Repairs

- If the reported condition is not life-threatening (*i.e.*, the PHA would require the owner to make the repair within no more than 30 calendar days in accordance with § 982.404(a)(3)), then the PHA must inspect the unit within 15 days of when the PHA received the notification.

# Waiver of 24-Hour or 15-Day Inspection Requirement

- In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or the 15- day inspection requirement until such time as an inspection is feasible.

# Use of Alternative Inspections

- A PHA may comply with the inspection requirement in Annual/Biennial Inspections by relying on an alternative inspection (*i.e.*, an inspection conducted for another housing assistance program) only if the PHA is able to obtain the results of the alternative inspection.

# Sample Must Include HCV Units

- If an alternative inspection method employs sampling, then a PHA may rely on such alternative inspection method to comply with the requirement in Annual/Biennial inspections only if HCV units are included in the population of units forming the basis of the sample
- May be some units- does not require all the units in the sample to be HCV program units

# Triennial Inspections

- Units in properties that are mixed- finance properties assisted with project- based vouchers may be inspected at least triennially pursuant to 24 CFR 983.103(g).

# Project-based Voucher-Biennial Inspections

- At least biennially during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with the HQS.
- Turnover inspections are not counted toward meeting this inspection requirement

# Project-based Biennial Inspections

- If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, then the PHA must re-inspect 100 percent of the contract units in the building
- A PHA may also use the procedures applicable to HCV units and inspect all units on an annual or biennial bases- if they so choose.

# Mixed-Financed Properties Inspections

- In the case of a property assisted with project-based vouchers that is subject to an alternative inspection, the PHA may rely upon inspections conducted at least triennially to demonstrate compliance with the inspection requirement of the re-inspection (annual or biennial).

# Administrative Plan

- A PHA relying on an alternative inspection to fulfill the requirement must identify the alternative inspection method being used in the PHA's administrative plan.
- Such a change may be a significant amendment to the plan, in which case the PHA must follow its plan amendment and public notice requirements, in addition to meeting the requirements before using the alternative inspection method.

# Eligible Inspection Methods

- A PHA may rely upon inspections of housing assisted under the HOME Investment Partnerships (HOME) program or housing financed using Low- Income Housing Tax Credits (LIHTCs), or inspections performed by HUD, with no action other than amending its administrative plan.

# Alternatives other Than HQS or UPCS

- If a PHA wishes to rely on an inspection method other than a method listed regulations, then, prior to amending its administrative plan, the PHA must submit to the Real Estate Assessment Center (REAC) a copy of the inspection method it wishes to use, along with its analysis of the inspection method that shows that the method “provides the same or greater protection to occupants of dwelling units” as would HQS.

# Alternative Inspection Approvals

- A PHA may rely upon such alternative inspection method only upon receiving approval from REAC to do so.
- A PHA that uses an alternative inspection method approved under this paragraph must monitor changes to the standards and requirements applicable to such method.

# Alternative Inspection Approval

- If any change is made to the alternative inspection method, then the PHA must submit to REAC a copy of the revised standards and requirements, along with a revised comparison to HQS.
- If the PHA or REAC determines that the revision would cause the alternative inspection to no longer meet or exceed HQS, then the PHA may no longer rely upon the alternative inspection method to comply with the inspection requirement.

# Results of Alternative Inspection

- In order for a PHA to rely upon the results of an alternative inspection to comply with the inspection requirement, a property inspected pursuant to such method must meet the standards or requirements regarding housing quality or safety applicable to properties assisted under the program using the alternative inspection method.

# Procedures to Adhere to Alternative Inspection

- If a property is inspected under an alternative inspection method, and the property receives a “pass” score, then the PHA may rely on that inspection to demonstrate compliance with the inspection requirement of Annual/Biennial.

# Procedures for Compliance

- If a property is inspected under an alternative inspection method, and the property receives a “fail” score, then the PHA may not rely on that inspection to demonstrate compliance with the inspection requirement at Annual/Biennial.

## If No Pass/Fail Rating in Alternative

- If a property is inspected under an alternative inspection method that does not employ a pass/fail determination—for example, in the case of a program where deficiencies are simply identified—then the PHA must review the list of deficiencies to determine whether any cited deficiency would have resulted in a “fail” score under HQS.

# Procedures for Compliance

- If no such deficiency exists, then the PHA may rely on the inspection to demonstrate compliance with the inspection requirement of Annual/Biennial;
- If such a deficiency does exist, then the PHA may not rely on the inspection to demonstrate such compliance.

# If Failing or Issues- PHA Must Inspect

- Under any previously described in which a PHA is prohibited from relying on an alternative inspection method for a property, the PHA must, within a reasonable period of time, conduct an HQS inspection of any units in the property occupied by voucher program participants and follow HQS procedures to remedy any identified deficiencies.

# Record Retention

- As with all other inspection reports, and as required by the regulations, reports for inspections conducted pursuant to an alternative inspection method must be obtained by the PHA.
- Such reports must be available for HUD inspection for at least three years from the date of the latest inspection.

# Using Payment Standard at 120% for HCV Program

- The PHA may establish an exception payment standard of not more than 120 percent of the published FMR if required as a reasonable accommodation for a family that includes a person with a disability.
- Any unit approved under an exception payment standard must still meet the reasonable rent requirements

# HUD Approval in Certain Cases

- The HUD Field Office may approve an exception payment standard amount from above 110 percent of the published FMR to not more than 120 percent of the published FMR (upper range) if the HUD Field Office determines that approval is justified by either the median rent method or the 40th or 50th percentile rent method (and that such approval is also supported by an appropriate program justification in accordance with the regulations)

## Median Rent Method

- In the median rent method, HUD determines the exception payment standard amount by multiplying the FMR times a fraction of which the numerator is the median gross rent of the exception area and the denominator is the median gross rent of the entire FMR area.

# 40<sup>th</sup> or 50<sup>th</sup> Percentile Rent Method

- In this method, HUD determines that the area exception payment standard amount equals either the 40th or 50th percentile of rents for standard quality rental housing in the exception area.
- PHA will present statistical history

## **PHA Approval of Higher Payment Standard as Reasonable Accommodation**

- If the family includes a person with disabilities and requires a payment standard above the basic range, as a reasonable accommodation for such person, in accordance with the regulations, the PHA may establish a payment standard for the family of not more than 120 percent of the FMR

# Utility Allowance Schedule- HCV Program

- The PHA must use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the family unit size as determined under the PHA subsidy standards.

# Utility Allowance Schedule- Reasonable Accommodation

- In cases where the unit size leased exceeds the family unit size as determined under the PHA subsidy standards as a result of a reasonable accommodation, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family.

## SEMAP - continued

- Indicator #3, Determination of Adjusted Income
- Measures accuracy of calculations, verification of income, appropriate use of utility allowances, and utility allocations to the correct party
- PHA must conduct quality control of tenant files for
  - New admissions
  - Annual reexaminations
- Sample size taken in accordance to HUD's rules for the program size
- PHAs should engage in self-assessment reviews

**HCV**  
**Updates Occupancy,**  
**Eligibility, Income and Rent**

**Thank You on Behalf of D L Morgan**