

# Copyright

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## Section 8 HCVP Occupancy Updates

***DEREK ANTOINE, TRAINER***

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## Notices

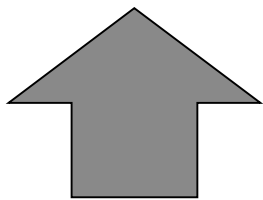
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PIH Notice 2020-05
PIH Notice 2020-08 (Administrative Fees)
PIH Notice 2020-13 (Revision 1)
PIH Notice 2020-17 (HAP)
PIH Notice 2020-20 (Mod-Rehab)
PIH Notice 2020-22 (Mainstream)
PIH Notice 2020-26 (RAD)
PIH Notice 2020-33 (Revision 2)
PIH Notice 2021-14 (Revision 3)

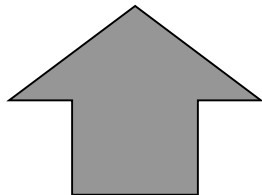
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## What is the CARES Act?

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The Coronavirus Aid, Relief and  
Economic Security (CARES) Act



Established on 03/27/2020  
to respond to COVID

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## HUD Waivers

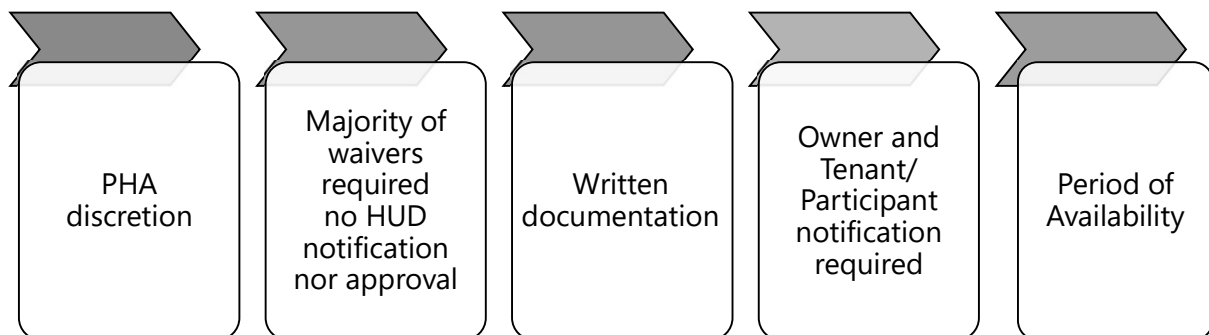
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- ▶ PIH Notice 2020-05 was HUD's first notice after implementation of the CARES Act
- ▶ "Pursuant to the authority provided under the Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136), HUD is waiving and establishing alternative requirements for numerous statutory and regulatory requirements for the Public Housing program, Housing Choice Voucher (HCV) program, Indian Housing Block Grant (IHBG) program, and Indian Community Development Block Grant (ICDBG) program."

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## Use of Waivers

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## Waiver Terms

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### SHORT-TERM

"provide PHAs with essential flexibilities when normal operations are severely disrupted."

Ended 07/31/2020	Extended to 12/31/2020 in PIH Notice 2020-13	Extended to 06/30/2021 in PIH Notice 2020-33	Extended to 12/31/2021 in PIH Notice 2021-14*
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## Waiver Terms

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### LONG-TERM

"permit PHAs to defer important but less critical functions to focus on their most vital responsibilities and effectively manage their transition back to normal operations."

Ended 12/31/2020	Extended to 06/30/2021 in PIH Notice 2020-33	Extended to 12/31/2021 in PIH Notice 2021-14**
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## Waiver Terms

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### UNIQUE DATES

"such as when the period of availability is dependent on a PHA's fiscal year end date or based on a specific action or activity."

Some were extended, some were not

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## The Waivers

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- ▶ PH and HCV-1 PHA 5-Year and Annual Plan
- ▶ PH and HCV-2 Family income and composition – delayed annual reexaminations
- ▶ PH and HCV-3 Annual Reexamination Income Verification
- ▶ PH and HCV-4 Interim reexaminations

10

## The Waivers

11

- ▶ PH and HCV-5 EIV System Monitoring
- ▶ PH and HCV-6 FSS Contract of Participation
- ▶ PH and HCV-7 Waiting List
- ▶ PH and HCV-8 Eligibility Determination: Income Verification
- ▶ PH and HCV-9 Social Security Number and Citizenship Verification

11

## The Waivers

12

- ▶ HQS-1 Initial inspection
- ▶ HQS-2: PBV Pre-HAP Contract Inspections, PHA acceptance of completed units
- ▶ HQS-3 Non-Life Threatening HQS - Initial Unit Approval
- ▶ HQS-4 Initial HQS - Alternative Inspections

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## The Waivers

13

- ▶ HQS-5 Biennial Inspections
- ▶ HQS-6 Interim Inspections
- ▶ HQS-7 PBV Turnover Inspections
- ▶ HQS-8: PBV HAP Contract – HQS Inspections to Add or Substitute Units

13

## The Waivers

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- ▶ HQS-9 HQS QC Inspections
- ▶ HQS-10 HQS Space and Security
- ▶ HQS-11 Homeownership HQS

14

## The Waivers

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- ▶ HCV-1 Administrative Plan
- ▶ HCV-2 PHA Oral Briefing
- ▶ HCV-3 Term of Voucher - Extensions of Term
- ▶ HCV-4 PHA Approval of Assisted Tenancy
- ▶ HCV-5 Absence from unit

15

## The Waivers

16

- ▶ HCV-6 Automatic Termination of the HAP Contract
- ▶ HCV-7 Increase in Payment Standard
- ▶ HCV-8 Utility Allowance Schedule
- ▶ HCV-9 Homeownership Counseling
- ▶ HCV-10 FUP

16



## The Waivers

17

- ▶ HCV-11 Family Unification Program (FUP): Length of Assistance for Youth
- ▶ HCV-12 Family Unification Program (FUP): Timeframe for Referral
- ▶ HCV-13 Homeownership: Maximum Term of Assistance
- ▶ HCV-14 Mandatory Removal of Unit from PBV HAP Contract
- ▶ HCV-15 Project-Based Voucher (PBV) and Enhanced Voucher (EV) Provisions on Under-Occupied Units

17

## The Waivers

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- ▶ 11b SEMAP
- ▶ 12a Form HUD 50058

18

## The Waivers

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- ▶ 11b-1 SEMAP
- ▶ 11b-2 SEMAP

19

## Admin Fees – Eligible Expenses

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1. Any currently eligible HCV (including mainstream voucher) administrative costs during the period that the program is impacted by coronavirus; and
2. New coronavirus-related activities, including activities to support or maintain the health and safety of assisted individuals and families, and costs related to the retention and support of participating owners.

20

## Admin Fees

21

- ▶ Period of Availability
  - ▶ CY 2020 (FY 2020 funds may be used for CY 2020 allowable expenses)
- ▶ Track separately; cannot roll into UNP
  - ▶ Unused fund had to be remitted to HUD, so the idea was to use first for appropriate expenses

21

## Reporting

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To ensure PHAs have the ability to report to HUD on these expenses, PHAs must track coronavirus revenue and expenses by creating coronavirus Profit and Loss (P&L) accounts.

Recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient.

22

## Supplemental Funding

23

- ▶ The supplemental HAP funding deadline was March 31, 2021 as stated in PIH Notice 2020-17.
- ▶ PIH Notice 2021-10 – Funding Notice
  - ▶ Most Set-Aside Funding application deadlines are May 14, 2020

23

## Other COVID related updates

24

- ▶ PIH Notice 2020-19 Rent Reasonableness – Defining Assisted Units for the Housing Choice Voucher and Project-Based Voucher Programs
  - ▶ Subsequently Rent Reasonableness Chapter of HCV Guidebook

24

## PIH Notice 2021-05

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### *Use of Shared Housing is the HCV Program*

#### **Types of Shared Housing**

For-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company.

#### **PHA Considerations**

For-profit shared housing matching (such as roommates or single-family homes) and online sites which charge a fee for their matching services.

Non-profit shared housing matching services.

#### **Potential roadblocks**

Local and State laws and guidelines

HAP Payment restrictions

HQS

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26

# Remote Video Inspections (RVI)

27

## Regulation

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- ▶ PIH Notice 2020-31 Remote Video Inspections for Housing Choice Voucher Program
- ▶ PIH Notice 2017-20 HOTMA – HQS Implementation Guidance
- ▶ 24 CFR 982.401 - 982.407

28

## What is RVI?

29

- ▶ RVI is a way to use technology to complete an HQS inspection without the inspector being on-site.
- ▶ It helps PHAs overcome inspection challenges now, in a time of global pandemic, and in the future.
- ▶ As things transpire, HUD will share additional guidance and best practices.

29

## Why RVI?

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- ▶ Health and safety of residents, landlords, and inspectors
  - ▶ Encourages PHAs to prioritize this

30

## Four Phases

31

Administrative  
Preparation

Pre-  
Inspection  
Planning

Performing  
the  
Inspection

Post-  
Inspection

31

## Administrative Prep

32

- ▶ Evaluate whether incorporating technology into the inspection process requires an update of your Admin Plan to provide notice of the purpose and benefits of utilizing RVIs.
- ▶ Determine if the use of technology as part of the inspection process constitutes a significant amendment to the Annual Plan.

32



## Pre-Inspection Planning

33

- ▶ Assess Equipment Needs.
  - ▶ Consider whether the party performing the RVI has the equipment, and if not, how it is to be provided.

33

## Pre-Inspection Planning Scheduling RVI

34

- ▶ Tenant or the landlord/property manager should attend the RVI inspection. Additionally, the RVI tenant notifications should explain:
  - ▶ RVI
  - ▶ Three rationale for RVI implementation, and
  - ▶ provide a contact number and email address for tenants to raise questions or concerns.
- ▶ Ensure the inspector and designated proxy successfully completes the free online Lead based Paint Visual Assessment Training Course, for properties built before 1978 where a child under 6 resides or will reside.
  - ▶ Persons trained are to email the certificate of completion to the inspector. The inspector adds the certificate of completion to the inspection file.

34

## Performing the Inspection

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- ▶ Provide adequate privacy safeguards for the protection of Personally Identifiable Information (PII).
- ▶ Choose a proxy for the inspection.
- ▶ Once the inspection is scheduled, the HQS inspector uses the PHA's designated streaming web-based platform to contact the proxy.
  - ▶ The HQS inspector uses the same inspection form the PHA currently uses to record any deficiencies.

35

## Proxy duties

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- ▶ The proxy can be the landlord, property representative, tenant, or any adult associated with this tenancy.
- ▶ The selection of the proxy is a mutual decision between the PHA, landlord, and tenant.
- ▶ The proxy follows the direction of the HQS inspector throughout the entire inspection process.

**THE PROXY IS NOT PERFORMING THE INSPECTION, THE INSPECTOR IS**

36

## Proxy Notification

37

- ▶ Notify the approved proxy in advance that participation in the RVI will involve:
  1. Determination of no smell of natural gas, Methane, or other noxious gas.
  2. Completion of the free online Lead based Paint Visual Assessment Training Course.
  3. Streaming the RVI (not recorded) considering a legal review may be needed to address possible PII concerns.
  4. Fully following directions of the inspector.
  5. Any additional items deemed necessary by the PHA.

37

## Required Documents & Certifications

38

- ▶ Proxy Certification
  - ▶ Prior to the RVI, the PHA and impacted parties with legal possession of the unit should agree to use an RVI rather than an on-site inspection by PHA staff.
    - ▶ Occupied vs Unoccupied
    - ▶ No agreement = on-site inspection

38

## Performing the Inspection

1. Prior to starting, verify the unit on screen is the unit scheduled to be inspected. From outside the unit, confirm the address and street name.
2. Once confirmed, inspect the exterior of the unit (outside walls, roof, any exterior item inspectable including the yard) and adjoining properties.
3. Inspect all interior spaces, bedrooms, common areas, and tenant-accessed areas.

39

## Performing the Inspection

4. For a pre-1978 property, follow National and State LBP requirements for an HQS inspection.
  - A. Verify that the proxy completed the Lead based Paint Visual Assessment Training Course.
  - B. Exterior: Examine all sides of the structure, including but not limited to fences and outbuildings. Visually examine paint conditions of all siding, trim, windows, porches, steps, columns, and any other painted areas.
  - C. Interior: Review each room separately and visually examine paint conditions of walls, ceilings, steps, floors, doors, door frames, and windows, including window troughs.
  - D. For deteriorated paint (including cracked, chipped or otherwise damaged paint), document the amount of deterioration, indicating whether the scale is greater or less than the HUD de minimis amounts (24 CFR 35.1350(d)).

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## Performing the Inspection

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5. Generate notification letters to the landlord and/or tenant to communicate inspection results.
6. Schedule re-inspection, if needed, in accordance with the PHA/LBP policy.

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## Post-Inspection

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- ▶ Inspection passes
  - ▶ PHA follows Admin Plan/procedure, informs the tenant/landlord, and follows the process to
    - ▶ process HAP for initial inspection, or
    - ▶ approves inspection within their system.

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## Post-Inspection

43

- ▶ Inspection fails

- ▶ PHA follows Admin Plan/procedure and informs tenant/landlord of fail items
  - ▶ Include any follow-ups such as a reinspection/verification or requirement for Lead-Based Paint (LBP) clearance testing.

43

## Post-Inspection

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- ▶ PHAs are encouraged to perform additional Quality Control (QC) inspections under the RVI process.
  - ▶ RVI QC inspections are in addition to the five percent required under SEMAP indicator #5 unless SEMAP indicator #5 is waived by CARES Act Waivers or Provisions.

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## Required Notification

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- ▶ Submit a notification of intent to use RVI to [RVI@hud.gov](mailto:RVI@hud.gov) and use this same address for any questions or need for further information.

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## Considerations

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- ▶ How will your PHA supply physical equipment to the proxy?
- ▶ What if there are streaming problems?
  - ▶ Photos are not acceptable; must be live-streamed
- ▶ Do your procedures ensure consistency among inspectors and the proxy inspector?
- ▶ How will your PHA handle an inspection that cannot be conducted properly/as required?

46

## Suggested Tool Considerations

47

### ► Inspector

- Laptop with large screen or desktop with large monitor
- Practice run
- Clear directions to use while directing the proxy
- Systematic approach
- Time and patience

47

## Suggested Tool Considerations

48

### ► Unit/Proxy

- Good Wi-Fi or Cellular Connection
- Tools that visually display/demonstrate subjective items
- Acceptable tool to test smoke and carbon monoxide detectors
- Clear instructions from inspector
- Time and patience

48



## CARES Act - HQS

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- ▶ PIH Notice 2020-05 issued on April 10, 2020
  - ▶ 11 HQS Waivers in this initial Waiver Notice
  - ▶ Had to be adopted during availability period
    - ▶ Short-term = 07/31/2020
    - ▶ Long-term = 12/31/2020
    - ▶ Some unique dates

49

## CARES Act - HQS

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- ▶ PHA choice; some, all or none
- ▶ Keep written documentation
- ▶ No HUD notification nor approval necessary
- ▶ No Admin Plan changes necessary
- ▶ MUST notify residents and owners

50

## CARES Act - HQS

51

- ▶ Most HQS Waivers were short term (7/31/2020) or had unique dates
  - ▶ The majority of the waived inspection protocols had to be remedied by 10/31/2020, but...

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## CARES Act - HQS

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- ▶ PIH Notice 2020-13 issued on July 2, 2020
  - ▶ For any housing quality standards (HQS) provision that authorizes a PHA to rely upon an owner's certification as to the absence of life-threatening conditions, the PHA is now required to perform an inspection of the unit no later than 1 year from the date of the owner's certification, rather than no later than October 31, 2020.
  - ▶ For any PHA that employs biennial HQS inspections, the PHA is required to perform an inspection as soon as reasonably possible but no later than 1 year from the date on which the biennial inspection would have been required in the absence of a waiver, rather than no later than October 31, 2020.

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## CARES Act - HQS

53

### ► PIH Notice 2020-13

- Also required PHAs to post publicly, or otherwise make available to the public, a list of all waivers and alternative requirements the PHA chooses to apply in addition to notifying affected residents and owners.

53

## CARES Act - HQS

54

### ► PIH Notice 2020-33 issued on November 30, 2020

- HQS-5: HQS Inspection Requirement: Biennial Inspections now provides the alternative requirement that, at a minimum, the PHA must require the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question.

54

## Wrap Up

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- ▶ If waivers weren't adopted, should be doing inspections
- ▶ RVI is good alternative to keep everyone safe
  - ▶ Don't forget notification to HUD
- ▶ Do not have to use strictly during COVID

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# Remote Hearings & Briefings

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## Notices

58

- ▶ PIH Notice 2020-32
- ▶ PIH Notice 2020-33
  - ▶ Supersedes PIH Notice 2020-05 and PIH Notice 2020-13

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## Definitions

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**Remote Briefing.** Under this notice, a “remote briefing” refers to the oral briefing PHAs are required to provide to every new HCV program applicant (24 CFR 982.301(a)), including project-based voucher applicants (24 CFR 983.252(a)) and the TPV family briefing (as described in Section 2.f above. It also refers to the briefing PHAs are required to provide to every new Moderate Rehabilitation applicant (24 CFR 882.514(d)).

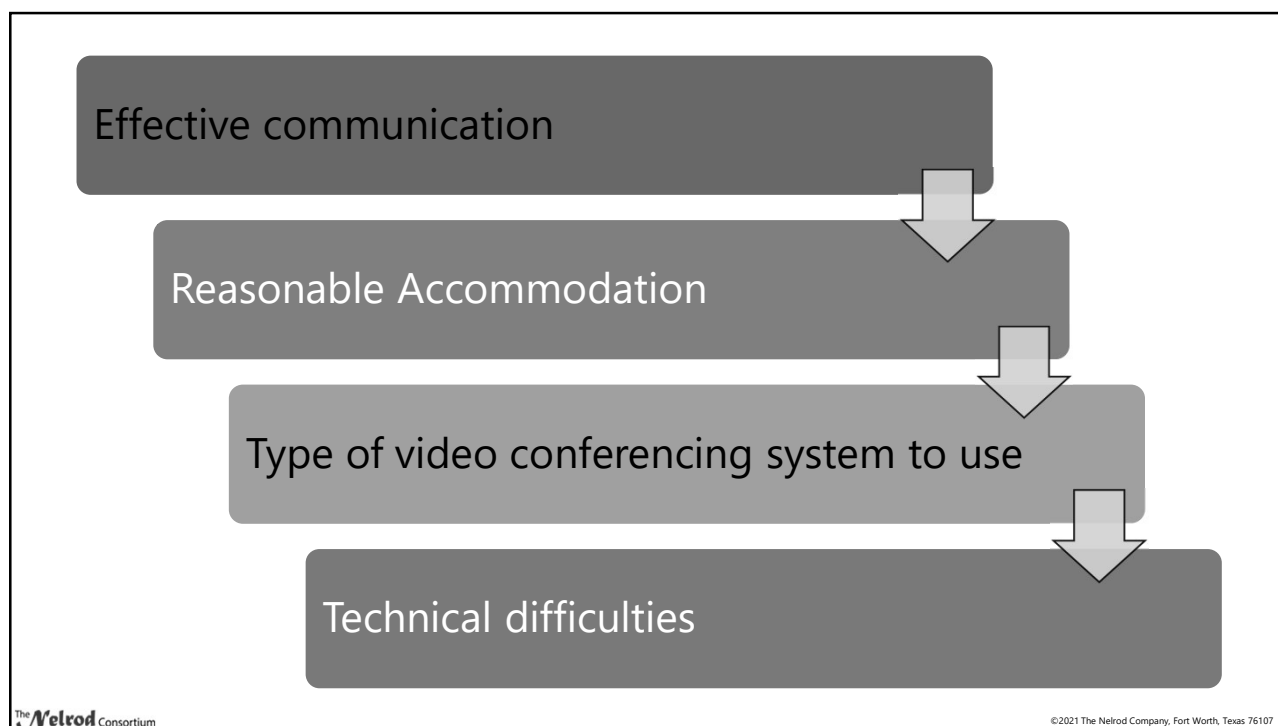
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## Definitions

60

**Remote Hearing.** Under this notice, a “remote hearing” in public housing refers to the informal hearing for a denial of admission (24 CFR 960.208(a)), the informal settlement of a grievance for a participant (24 CFR 966.54) and the grievance hearing for a participant (24 CFR 966.56). In the HCV program, a “remote hearing” refers to the informal review for denial of assistance (24 CFR 982.554) and an informal hearing for a participant (24 CFR 982.555). In the Moderate Rehabilitation program, a “remote hearing” refers to the informal hearing for denial of assistance or termination of assistance (24 CFR 882.514(f)).

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## Effective Communication

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Must ensure meaningful access to the HCV program to **all** persons



Persons with Disabilities



LEP Persons

62

## Communication Considerations

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- ▶ Auxiliary Aides and Services
- ▶ Limited English Proficiency (LEP)
- ▶ Reasonable Accommodations

63

## Video Conferencing Considerations

64

- ▶ Host admin features
- ▶ Allows for easy and quick check-in
- ▶ Customization
- ▶ Screen share documents, websites, etc.
- ▶ Has a chat function or polling for attendees
- ▶ Record meetings and exchanges

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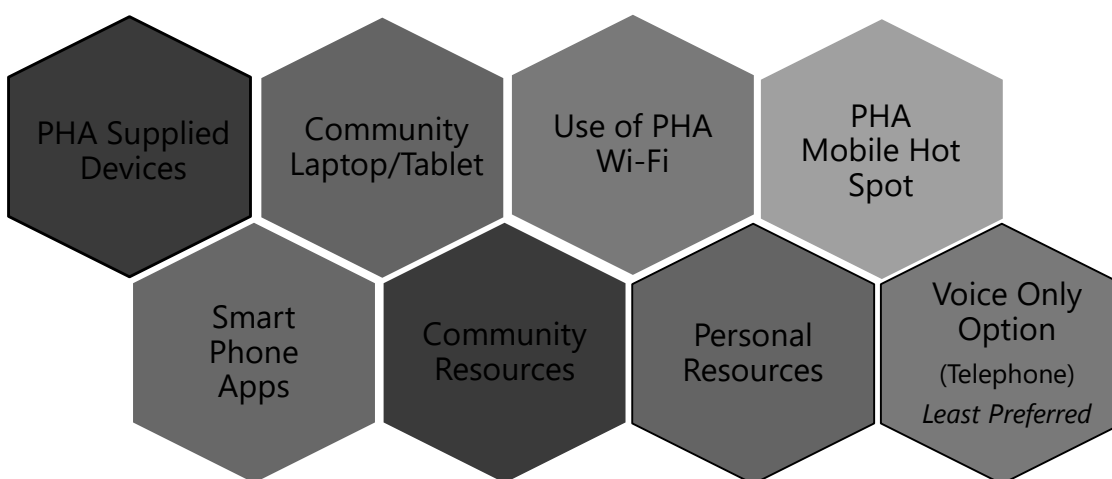


## Technical Barriers

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- ▶ Differing Technological Abilities
- ▶ Internet/Wi-Fi Issues
- ▶ Log-In Issues

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## Resolving Technology Barriers

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## Prior to Scheduling Briefing/Hearing

67

- ▶ Test your system
- ▶ Secure a location
- ▶ Secure Host/Hearing Officer or Panel
- ▶ How to issue physical Briefing Packets
- ▶ How to issue discovery for Hearing
- ▶ PII
- ▶ No-Show Policy

67

## Items to Address/Check

68

- ▶ On the day of the Briefing/Hearing
  - ▶ Load presentation and test audio and visual
  - ▶ Mute attendees upon arrival
  - ▶ Monitor phone and email for technical attendees
  - ▶ Take attendance and remove any uninvited people

68

## Briefing Specifics

69

- ▶ An oral briefing is required for all new applicants to the HCV program (24 CFR 982.301(a)) and the PBV program (24 CFR 983.252(a)). A briefing is required for all new applicants to the Moderate Rehabilitation program (24 CFR 882.514(d)).
- ▶ Notice PIH-2013-27 requires PHAs to conduct a family briefing prior to obtaining a family's voluntary written consent to relinquish their right to tenant-based assistance for families electing to remain in a project with TPVs.

69

## Future Remote Briefings

70

- ▶ Regulation always stated "oral briefing."
  - ▶ Never defined in-person vs virtual
- ▶ As PIH Notice 2020-33 deadlines approach, work toward updating Admin Plan
  - ▶ "include provisions to allow for use the of mail, electronic mail, webcast, and video call, as appropriate and as described in this notice." (PIH Notice 2020-32)

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## Hearing Specifics

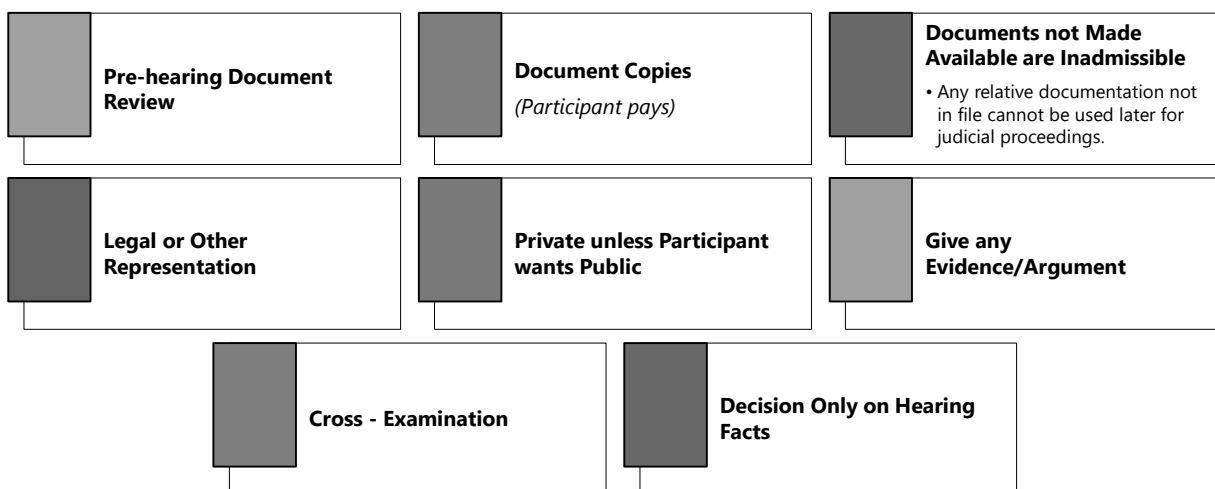
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- ▶ The PHA must provide an applicant an opportunity for an informal review of the PHA decision denying assistance to the applicant (24 CFR 982.554; 24 CFR 882.514(f)).
- ▶ The PHA must provide a participant an opportunity for an informal hearing if a participant contests the PHA's determination of the family's income, utility allowance, or unit size, or if the participant contests the PHA's proposed termination of the participant's assistance.

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## Due Process Consideration

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## Future Remote Hearings

73

- ▶ As with Remote Briefings, your Admin Plan **must** be updated.
  - ▶ “include provisions to allow for use the of mail, electronic mail, webcast, and video call, as appropriate and as described in this notice.” (PIH Notice 2020-32)

73

## No Show Policies

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### For Briefing

Late vs not at all

Notification

Effect on other attendees

### For Hearing

Late vs not at all

Notification

Effect on process and  
outcome

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## Best Practices

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- ▶ Review voucher obligations with families at reexamination.
- ▶ Have PHA staff reach out directly to applicants/participants by phone before the hearing.
- ▶ Have PHA staff reach out directly to families by phone before and after the briefing.
- ▶ Consider the impact of families attending briefings remotely on other program functions.

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## HCV Guidebook

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- ▶ Terminations Chapter
- ▶ Informal Hearings and Reviews Chapter
  - ▶ Both still listed as "Coming Soon."

76

## HCV Guidebook

77

- ▶ Eligibility Determination and Denial of Assistance Chapter
  - ▶ New as of November 2019
  - ▶ Noted changes were simply corrections, not updated regulation
  - ▶ New look

77

## Federal Registers & HCV HUD Page

78

- ▶ Keep an eye out for new guidance. You may first see it show up in the Federal Register for a comment period before anything else.
- ▶ Check POST (PIH One-Stop Tool) regularly to stay updated.

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# **Preparing for the HOTMA Final Rule**

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## Introduction

HOTMA proposes to:

- Align policies and procedures across program offices, where appropriate
- Reduce disparities between programs
- Simplify program administration for HUD grantees managing multiple programs

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## Introduction

In addition to Public Housing and Section 8 HCVP, Rent determination changes affect:

- PBRA
- HOPWA
- HOME
- Housing Trust Fund
- 202/811

82

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## HOTMA Added Definitions

83

### ► §5.100

- Earned Income
  - Income or earnings included in annual income from wages, tips, salaries, other employee compensation, and self-employment
  - Earned income does not include any pension or annuity, transfer payments, or any cash or in-kind benefits
- Real Property
  - Has the same meaning as that provided under the state law in which the real property is located

83

## HOTMA Added Definitions

84

### ► §5.603

- Distribution from a trust
  - Any cash payout to the beneficiary or any payment to a third-party on behalf of the beneficiary
- Foster adults
  - Persons with disabilities, not related to the family, who are unable to live alone
- Minor
  - A member of the family, other than the HoH or spouse, who is less than 18 years of age

84

# **“HOTMA Changes to Income Reviews”**

**(Section 102)**

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## **Income Reviews Frequency**

86

- ▶ Reviews of family income for purposes shall be made:
  - In the case of all families, upon the initial provision of housing assistance for the family;
  - Annually thereafter, except as with respect to fixed-income families
  - Upon the request of the family, at any time the income or deductions of the family changed by an amount that is estimated to result in a decrease of 10% or more in annual adjusted income

86

## HOTMA Proposed Interim Reexams

87

### ► §§ 960.257 and 982.516

- A family may request an interim reexamination of family income or composition because of any changes since the last determination. The PHA must conduct the interim reexam within a reasonable period of time after the family's request
- The PHA must adopt policies describing under what circumstances the family must report a change in income and composition

87

## HOTMA Proposed Interim Reexams: Decreases

88

### ► §§ 960.257 and 982.516

- The PHA may decline to process the interim reexam if the PHA estimates the family's adjusted income will decrease by an amount that is less than **10%** of the family's annual adjusted income
- If the PHA determines the estimate decrease in family adjusted income is at least **10%** (or a lower threshold established by the PHA), the PHA must conduct the interim reexam

88

## HOTMA Proposed Interim Reexams: Increases

89

### ► §§ 960.257 and 982.516

- The PHA must contact a reexam of family income within a reasonable time after the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an **increase of 10% or more** in annual adjusted income, except:
  - The PHA may not consider any increase in earned income when estimating whether the family's adjusted income has increase unless the family has previously received an interim reduction during the year
  - The PHA may choose not to conduct an interim reexam in the last **3 months** of a certification period

89

## Current Definition of Income

90

- ### ► 24 CFR 5.609: Annual income means all amounts, monetary or not, which:
- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
  - Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
  - Which are not specifically excluded
  - Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access

90

## HOTMA Revised Definition of 'Income'

91

- ▶ 24 CFR 5.609: Annual income means with respect to the family:
  - All amounts, not specifically excluded received from all sources by each member of the family who is 18 years of age or older or is the HoH or spouse of the HoH, plus unearned income by or on behalf of each dependent who is less than 18 years of age, and
  - The imputed return on assets over \$50,000 based on the current passbook savings rate, as determined by HUD, if the actual income on assets over \$50,000 cannot be computed. The \$50,000 figure shall be adjusted annually in accordance with a commonly recognized inflationary index determined by HUD

91

## Excluded "Income"

92

- ▶ Any imputed income from assets, unless net family assets exceed \$50,000;
- ▶ Any amounts that would be eligible for exclusion under the Social Security Act;
- ▶ Deferred disability benefits from the Dept. of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts;

92

## HOTMA Excluded “Income”

93

- ▶ Any expenses related to aid and attendance to veterans who need regular aid and attendance;
- ▶ Other exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income

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## HOTMA Excluded “Income”

94

- ▶ With the exception of inheritances, capital gains, gifts, and other sporadic income, HUD proposes to maintain the other exclusions currently listed in §5.609
  - Insurance payments remain excluded from annual income, but it is clarified that insurance payments include payments under health and accident insurance and worker’s compensation
  - Earnings in excess of \$480 for full-time students 18 years or older who are not the HoH or spouse of the HoH remain excluded
    - However, that exclusion requires that the \$480 figure be adjusted annually for inflation

94

## Current Definition of “Adjusted Income”

95

- ▶ 24 CFR 5.611 Adjusted Income: Annual income of the members of the family residing or intending to reside in the unit after making the following deductions:
  - \$480 for each dependent
  - \$400 for any elderly/disabled family
  - Unreimbursed medical expenses of an elderly/disabled family
  - Unreimbursed disability assistance expense
  - Reasonable childcare
  - Permissive deductions (PH only)

95

## HOTMA Revised Definition of “Adjusted Income”

96

- ▶ 24 CFR 5.611 Adjusted Income: Annual income of the members of the family residing or intending to reside in the unit after making the following deductions:
  - \$480 for each dependent
    - Remained the same
  - \$525 elderly/disabled allowance
    - Increased to \$525 from the current \$400

96



## HOTMA Revised Definition of “Adjusted Income”

97

- ▶ HOTMA provides that HUD adjust the dependent deduction and elderly/disabled allowance annually for inflation and the actual deduction should be determined for each year by rounding such amount to the next lowest multiple of \$25

97

## HOTMA Revised Definition of “Adjusted Income”

98

- ▶ The Health and Medical Expense Deduction
  - Is limited to the amount by which those expenses **exceed 10%** of the family's annual income
    - Unreimbursed medical expenses of any elderly/disabled family
    - Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, if determined necessary to enable any member of the family to be employed

98

## Case Study #1: Current Calculation of TTP for Elderly/Disabled Family

99

Elderly/Disabled Household	
Annual Income	\$18,000
Medical Expense	\$4,800
Annual Adjusted Income	
Medical Expense Threshold	$\$18,000 \times 3\% = \$540$
Medical Expense Deduction	$\$4,800 - \$540 = \$4,260$
Elderly/Disabled Allowance	\$400
Total Adjusted Income	$\$4,260 + \$400 = \$4,660$
Annual Adjusted Income	$\$18,000 - \$4,660 = \$13,340$
Adjusted Monthly Income	$\$13,340 \div 12 = \$1,112$
TTP	$\$1,112 \times 30\% = \$333$

99

## Case Study #1: HOTMA Calculation of TTP for Elderly/Disabled Family

100

Elderly/Disabled Household	
Annual Income	\$18,000
Medical Expense	\$4,800
Annual Adjusted Income	
Medical Expense Threshold	$\$18,000 \times 10\% = \$1,800$
Medical Expense Deduction	$\$4,800 - \$1,800 = \$3,000$
Elderly/Disabled Allowance	\$525
Total Adjusted Income	$\$3,000 + \$525 = \$3,525$
Annual Adjusted Income	$\$18,000 - \$3,525 = \$14,475$
Adjusted Monthly Income	$\$14,475 \div 12 = \$1,206$
TTP	$\$1,206 \times 30\% = \$362$

100

## HOTMA Hardship Exemptions: Health & Medical Deductions

101

- ▶ A family may request a financial hardship exemption due to the change in the unreimbursed medical expenses that are not deductible because the threshold has been increased from 3% to 10% of annual income
- ▶ The family must demonstrate, to the PHA's satisfaction, their inability to pay their rent as result of this change

101

## HOTMA Hardship Exemptions: Health & Medical Deductions

102

- ▶ If approved, the PHA must recalculate the family's adjusted income and deduct the sum of the eligible medical expenses that exceed 6.5% of annual income instead of 10% of annual income
- ▶ The hardship exemption would expire at the family's next regular income reexamination or such a time the PHA determines the family can now pay the rent without the hardship exemption, whichever comes first

102

## **HOTMA Hardship Exemption: Childcare Deduction**

103

- ▶ A family may request a financial hardship exemption to continue the childcare expense deduction
- ▶ The PHA must recalculate the family's adjusted income and continue the childcare deduction if the family can demonstrate, to the PHA's satisfaction:
  - Their inability to pay their rent as result of the loss of the childcare deduction; and
  - The childcare deduction is still necessary even though the family member is no longer employed or furthering their education

103

## **HOTMA Hardship Exemption: Childcare Deduction**

104

- ▶ The hardship exemption ends at the earliest of:
  - The family's next regular reexamination
  - Such a time the PHA determines the need no longer exist for the childcare deduction if no adult family member is employed or furthering their education ; or
  - Such time the PHA determines the family is able to pay the rent without the hardship exemption

104

## Earned Income Disallowance

105

- ▶ Current: 24 CFR 5.617 and 24 CFR 960.255 Self-Sufficiency Incentives
  - Allows qualified persons to keep more of their earned income for a period up to 24 months following an increase in employment income
- ▶ HOTMA Proposed Changes
  - Adds paragraph (e) to both 24 CFR 5.617 and 24 CFR 960.255: Effective [EFFECTIVE DATE OF FINAL RULE] this section will not apply to any family who is not eligible for and participating in the disallowance of earned income under this section on [EFFECTIVE DATE OF FINAL RULE]

105

## “HOTMA Eligibility Limitations Based on Assets”

(Section 102)

106

## HOTMA Added Definitions

107

- ▶ §5.603 - Net family asset
  - Net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of investment
  - The value of any business or family assets disposed of for less than fair market value during the 2 years preceding the date of application/reexamination
  - New exclusions from net family assets

107

## HOTMA Proposed Excluded “Net Family Assets”

108

- ▶ Necessary items of personal property, and all items of personal property valued at \$50,000 or less
- ▶ The value of any accounts specifically dedicated for retirement
- ▶ Real property for which the family does not have the effective legal authority necessary to sell such property

108

## HOTMA Proposed Excluded “Net Family Assets”

109

- ▶ Amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty that resulted in a member of the family being disabled
- ▶ Value of any Coverdell education savings account or any qualified tuition program under sections 530 and 529, respectfully, of the IRC
- ▶ Any other exclusions that the Secretary may establish

109

## HOTMA Proposed Excluded “Net Family Assets”

110

- ▶ Interest in Indian trust land
- ▶ Equity in a manufactured home where the family receives Section 8 Tenant-Based Assistance
- ▶ Equity in property for which a family receives HCV Homeownership assistance
- ▶ Family Self-Sufficiency Accounts

110

## HOTMA Proposed Excluded “Net Family Assets”

111

### ► Trust Funds

- The value of a non-revocable trust would not be considered an asset as long as the fund continues to be held in trust
  - Any income distribution from any trust would be considered income, except in the case of distributions from non-revocable trusts, made to cover the medical expenses for a minor

111

## Restriction on Assistance Based on Assets

112

### ► § 5.618 will be added to Part 5, Subpart F

- A unit may not be rented, or assistance provided to a family initially or upon reexamination if:
  - The family's net assets exceed \$100,000
  - The family has a present ownership interest in, and the effective legal authority to sell, in the jurisdiction in which the property is located, real property suitable for occupancy by the family as a residence

112



## Restriction on Assistance Based on Assets

113

### ► Exception:

- Any property for which the family is receiving assistance under the manufactured home space rental or HCV homeownership options
- Any property that is jointly owned by a member of the family and another individual or individuals who would not reside with the family
- Any person that is a victim of domestic violence, dating violence, sexual assault, or stalking
- Any family that is offering such property for sale.

113

## Restriction on Assistance Based on Assets

114

### ► A property is considered suitable for occupancy unless the family can demonstrate that the property:

- Does not meet the disability-related needs of the family, including meeting physical accessibility requirements;
- Is not sufficient for the size of the family;
- Is geographically located so as to provide a hardship for the family; and
- Is not safe to reside in because of its physical condition

114

## Authorization for Financial Disclosure

115

### ► Current

- § 5.230 requires applicants and participants to sign consent forms authorizing PHAs to determine eligibility or the level of assistance
  - The consent forms must contain a statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed

115

## Authorization for Financial Disclosure

116

### ► HOTMA Proposed Rule Changes

- § 5.230 will be amended to include a provision authorizing PHAs to obtain **any** financial record whenever the PHA determines the record is needed in connection with a determination of eligibility or level of benefits

116

## Authorization for Financial Disclosure

117

### ► HOTMA Proposed Rule Changes

- HOTMA requires that the authorization allowing PHAs to obtain financial records from financial institutions shall remain effective until the earliest of:
  - The rendering of a final adverse decision for an assistance applicant;
  - The cessation of a participant's eligibility for assistance from HUD and the PHA; or
  - The express revocation by the assistance applicant, recipient or applicable family member of the authorization, in a written notification to HUD

117

## Penalties for Failing to Sign Consent Forms

118

### ► Current

- § 5.232 makes refusal to sign the consent forms grounds for denial of assistance/admission or termination of assistance

### ► HOTMA Proposed Rule Changes

- § 5.232 will be amended to state that this section is not applicable if the family revokes their consent with respect to the PHA's ability to access financial records from financial institutions, unless the PHA has established a policy in its PHA Annual Plan that revocation of consent to access financial records will result in denial/termination of assistance or admission

118

## Self-Certification of Net Family Assets

119

- ▶ The family may certify that the family's net assets do not exceed \$50,000
  - The certification must state the amount of income the family expects to receive from the assets – this amount must be included in the family's income
- ▶ The family may certify that the family does not have any current ownership interest in any real property at the time the PHA reviews the family's income

119

**“Policy Decisions”**

120

## Policy Decision:

121

### Discretion on Enforcing the Asset Limitation

- ▶ PHAs may choose not to enforce the limitation on eligibility based on assets, or it may establish exceptions to the restrictions based on eligibility criteria if it does so in the PHA Plan or adopted policy
- ▶ PHAs choosing to enforce the asset limitations may delay the start of the eviction or termination proceedings for a period of not more than **6 months** for a family that does not meet the limitation on assets

121

## PHA Annual Plan and Policy Decision:

122

### Authorization for Financial Disclosure

- ▶ HOTMA provides PHAs the discretion to determine whether applicants or recipients are ineligible for benefits if they, or their family members, refuse to provide or revoke the authorization to obtain financial records
- ▶ The proposed rule clarifies that the penalties **will not** apply if any family members revokes consent for the PHA to access financial records, **unless** the PHA has established a policy in their Annual Plan that revocation of consent to access financial records will result in denial or termination of assistance or admission

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123

	<p><b>2021 Funding Provisions, Reporting, and HUD-Held Reserves</b></p>
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## 2021 HCVP Funding Provisions

- Notice PIH 2021-10
- Allocation methodology for HAP renewal funds and administrative fees
- HAP set-aside application process
- Two parts:
  - HUD's implementation of the funding provisions
  - Administration of the PHA's HCVP programs

The Housing Choice Voucher Program is  
HUD's **LARGEST** rental  
assistance program.

**Total Available CY 2021 Appropriations:**

**\$25,777,439,000**

**That's BILLION. With a "B".**

127

128

## **2021 HCVP Funding Provisions**

The 2021 Act requires that HUD apply a re-benchmarking renewal formula **based on validated leasing and cost data in VMS for CY 2020** (January 1, 2020 to December 31, 2020) to calculate each housing authority's renewal allocation.

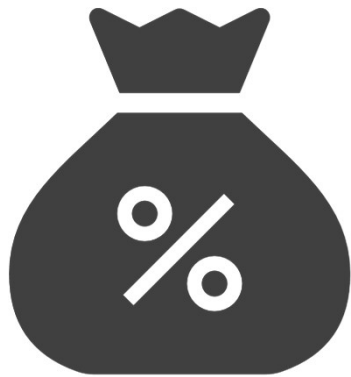


128



129

## 2021 HCVP Funding Provisions



Set-Aside Awards will be made to eligible PHAs **in accordance with need**, as determined by HUD, following an application by the PHA.

HUD reserves the right to fund one, some, or all of the categories.

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## 2021 HCVP Funding Provisions

Tenant Protection Vouchers (TPVs) are provided to **protect HUD-assisted families from hardships** that occur in HUD's Public Housing (Low-Rent) and Multifamily Housing portfolios.



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## 2021 HCVP Funding Provisions



The 2021 Act provides **\$2,159,000,000** for ongoing administrative expenses of PHAs administering the HCV Program.

**\*This year's appropriation cannot be used for the COVID-19 eligible expenses as authorized in CY 2020 by the CARES Act.**

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132

## 2021 HCVP Funding Provisions

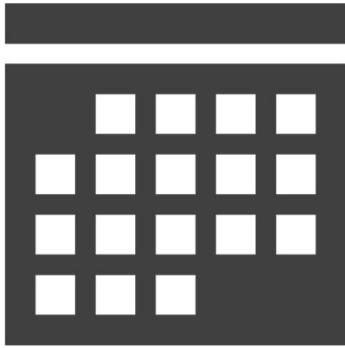
For **eligible homeless veterans and their families**, the HUD-VASH Program combines the HUD HCV rental assistance program with case management and clinical services provided The Department of Veterans Affairs (VA).



132

133

## 2021 HCVP Funding Provisions



PHAs receive **monthly disbursements** from their **budgetary allocations** in accordance with the cash management procedures in PIH Notice 2017-06.

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134

## 2021 HCVP Funding Provisions

PHAs are reminded that funds in the HAP RNP account and HUD-Held Program Reserves shall only be used for **eligible HAP needs** in the current CY.



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135

## 2021 HCVP Funding Provisions



PHA administrative fees may only be used to cover costs incurred to perform PHA administrative responsibilities for the program in accordance with HUD regulations and requirements.

135

136

## 2021 HCVP Funding Provisions

The 2021 Act prohibits the use of appropriated HAP funds by any PHAs to lease units above their baseline units during any calendar year.

\*Even if the PHA has sufficient budget authority (BA) and/or RNP to support the additional units.



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## **HCVF Financial Reporting Requirements**

- HCV Programs must submit their Annual Financial Statements through FASS-PH and their monthly voucher leasing and cost data through VMS
- HUD uses VMS data for budget formulation, cash management, monitoring, determining renewal funding levels, and funding-related factors
- It's imperative that PHAs comply with reporting requirements and timelines for reporting through VMS, ensuring both timely and accurate submissions.

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## **HCVF Financial Reporting Requirements**

- PHAs are required to submit leasing and cost data in VMS on a monthly basis
- Each month's data is submitted during the subsequent month
- VMS is available for regular submissions from the 4th through the 22nd of each month
- Adjustments to a previously reported month's VMS data may be entered at any time

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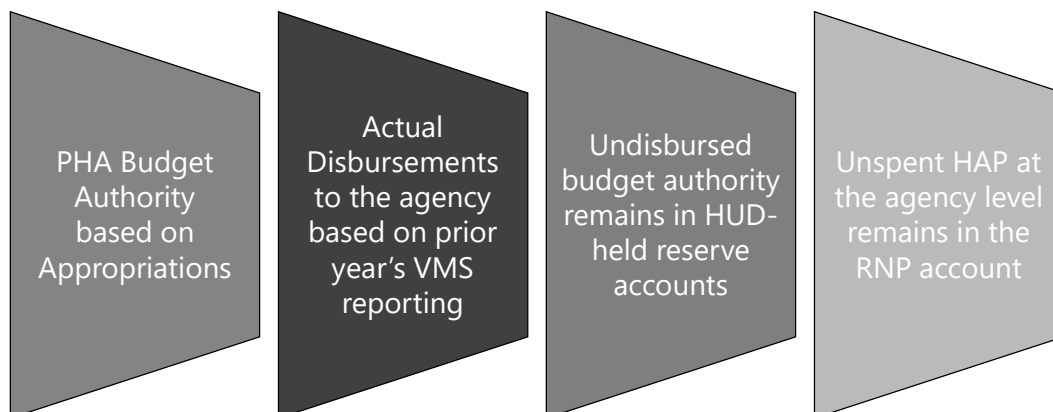
## Tracking and Spending HUD-Held Reserve

- PIH Notice 2017-06 reestablished HUD-held reserves
- Excess HAP funds remain obligated, but undisbursed
  - Budget authority
  - Actual disbursements
- Transitioned PHA-held restricted net-position (RNP) back to HUD-held reserve accounts

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## Tracking and Spending HUD-Held Reserve



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## Tracking HUD-Held Reserve



**Disbursement  
schedules**



**Renewal  
Funding  
Notices**



**Increment  
Notices and  
tables**



**Program  
Funding  
Reconciliations**

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## Tracking and Spending HUD-Held Reserve

Identify HUD-held reserve amount at CYB

Track budget authority and disbursements  
throughout the CY

Reconcile at the end of the CY

142

**HUD-Held reserves are  
YOUR MONEY.**

**Start spending them.**

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## **Tracking and Spending HUD-Held Reserve**

- Forecasting and planning are critical
- Watch your ACC
- You must be able to maintain the vouchers you add
- Funding will catch up to spending, within reason
- Adding leased vouchers adds administrative fees
- How do you get your hands on that pile of cash?

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## Tracking and Spending HUD-Held Reserve

- Requesting HHR from your FMC FA
  - Consult and work with your FA
  - Generally done on a month-to-month basis
  - Do your homework
  - Show your work
  - Present a compelling plan
  - Leave a little for a “rainy day”

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# Emergency Housing Vouchers

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## Emergency Housing Vouchers

- In May 2021, HUD allocated approximately 70,000 emergency housing vouchers (EHVs) to PHAs
- These EHVs are to assist individuals and families:
  - Who are experiencing homelessness
  - At risk of experiencing homelessness
  - Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking
  - Who were recently homeless
  - To prevent homelessness or housing instability

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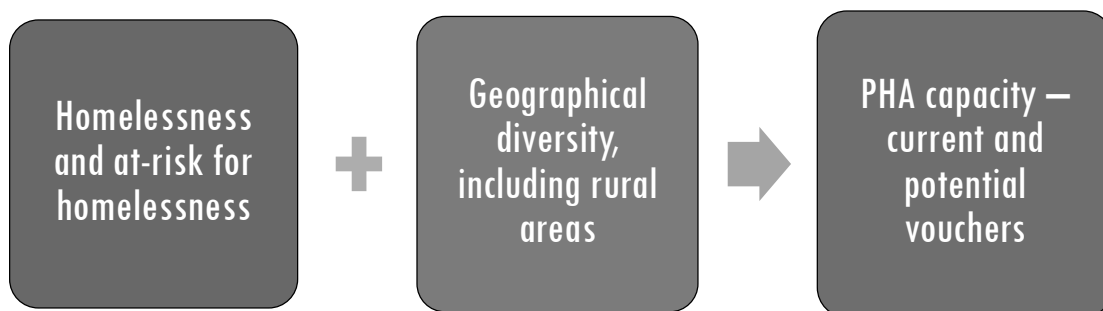
## Emergency Housing Vouchers

- HUD generally considers 25 vouchers to be the necessary minimum allocation size
- The formula adjusts with respect to geographical diversity (rural areas) – 15 voucher minimum
- Each state has a base allocation
- Eligible PHAs were notified via email on or before 5/10/2021
- Agencies had 14 calendar days to accept or reject

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## How Were EHV's Allocated?



150

151

## Emergency Housing Vouchers

- EHV's are tenant-based assistance under Section 8
- HAP is initially funded through 12/31/2022
- Funding is separate from standard HCV-based funding
- PHAs that accept their allotment of EHV's will receive:
  - Admin fees
  - Fees for EHV eligible expenses

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## “Other” Eligible Expenses

### Administrative Fees for EHV's



Preliminary fee



Placement fee



Ongoing admin  
fee



Services fee

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## Emergency Housing Vouchers

- PHAs are required to work with community partners to determine the best use and targeting for the vouchers along with other resources available in the community.
- Participating PHAs must enter into a memorandum of understanding (MOU) with the Continuum of Care (CoC) in the jurisdiction
- Within 30 days of effective ACC funding increment

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## Emergency Housing Vouchers

- The primary responsibility of the CoC under the MOU is to make direct referrals of qualifying individuals and families to the PHA
  - Determining eligibility
  - Make connections with diverse network of supportive services
  - Support applicants through the process

154

155

## Emergency Housing Vouchers

- Families issued EHV as the result of:
  - Direct referral from the CoC\*
  - Emergency transfer in accordance with VAWA
- EHV referrals are not added to the PHA's regular waiting list
- If referrals exceed allocation, maintain separate EHV waiting list
  - PHAs may establish preferences for EHV waiting lists

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## Emergency Housing Vouchers

- Required housing search assistance
  - Identifying available units
  - Assisting individuals with disabilities
  - Transportation
  - Owner outreach
  - Application assistance
  - Assistance with the leasing process

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## Emergency Housing Vouchers

- Families must be income eligible
  - HUD is waiving the third-party income verification requirements for EHV applicants
  - PHAs allowed to consider self-certification as the highest form of income verification at admission
  - Applicants must submit an affidavit attesting to reported income, assets, expenses and other factors which would affect an income eligibility determination
  - Once in the system, EIV/IVT has to be checked to verify

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## Emergency Housing Vouchers

- SSNs and Citizenship
  - HUD is waiving the requirement to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program
  - Such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance

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## Emergency Housing Vouchers

- Age/disability status
  - PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available.
  - If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

159

160

## Emergency Housing Vouchers

- Other factors
  - Income targeting is waived for EHV applicants
  - Consider pre-inspecting units to expedite leasing processes
  - Initial search term of 120 days, extensions permitted
  - Initial lease term may be less than 12 months to allow for increased housing opportunity
  - VMS will be modified for reporting of EHV activity

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## Emergency Housing Vouchers

- Other factors
  - Normal portability procedures and requirements apply
  - PHAs may use separate, *higher* payment standards for EHV
  - Inapplicable to project-based voucher assistance
  - Voucher turnover after 09/30/2023 becomes attrition
  - HUD can direct PHAs to cease leasing, revoke, and reallocate vouchers

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## Denial of Assistance to EHV Applicants

- Mandatory
  - Convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing
  - Subject to a lifetime registration requirement under a State sex offender registration program

162

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## Denial of Assistance to EHV Applicants

- Permissible

- If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:
  - Violent criminal activity.
  - Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity

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## Denial of Assistance to EHV Applicants

- Permissible

- If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program within the previous 12 months.
- If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months.

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165

## Denial of Assistance to EHV Applicants

- PHAs may NOT deny assistance for:
  - Previous evictions
  - Debts owed
  - Alcohol abuse
  - Drug-related criminal activity

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## Non-Discrimination



Admission processes **MUST** be consistent with all Fair Housing requirements.

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# Other Recent HUD Updates

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## **NOTICE PIH 2020-19**

### **Rent Reasonableness**

Supersedes Notice PIH 2011-46 and updates guidance concerning what is considered an assisted unit under Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) for the purpose of rent reasonableness requirements.

- Units in converted properties
- Units with restricted rents
- Unassisted units
- Recent rentals in multifamily properties

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## **NOTICE PIH 2020-29**

### **Optimized HCV Program**

HUD's recognition of a recent trend of increased program reserves.

While a reasonable level of reserves is prudent, an excess could be indicative of several issues.

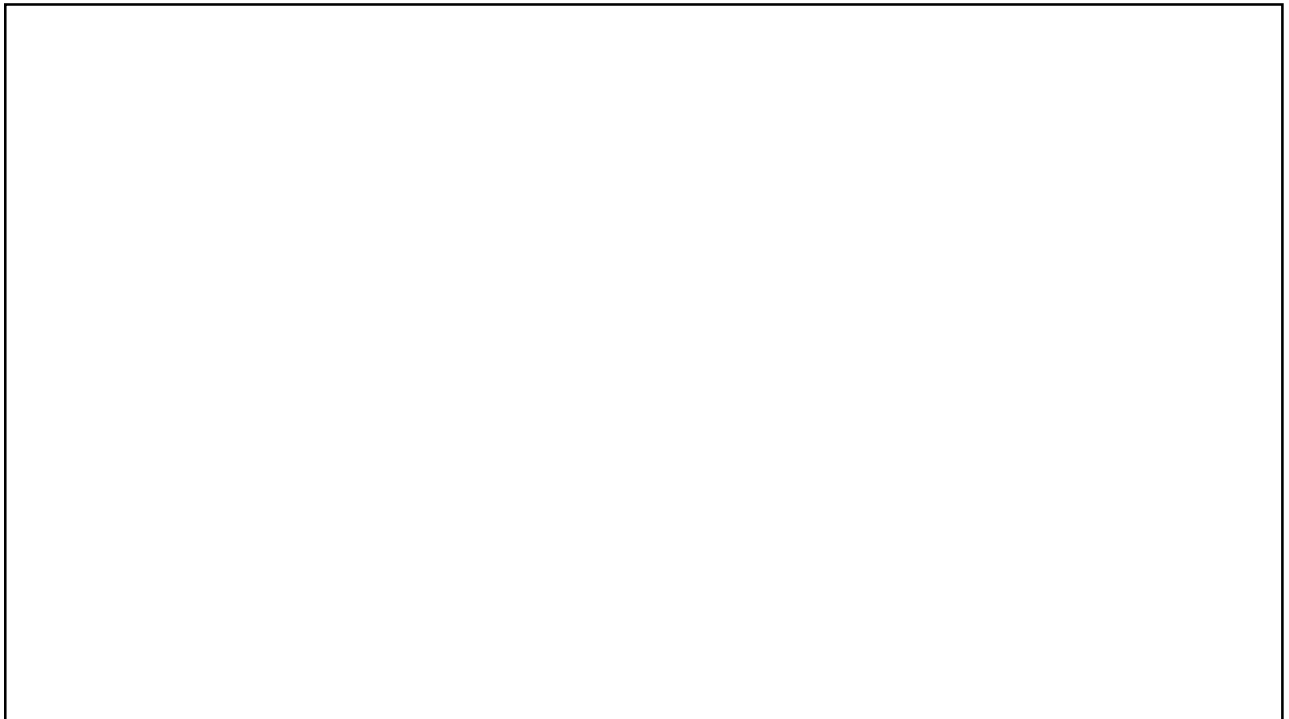
Notice provides tools and guidance on running an "optimized" program



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