

HOT ISSUES IN HOTMA

Trustees (and others) Beware



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History of Federally Subsidized Housing

The federal government's involvement in subsidized housing began during the Great Depression. In response to the widespread unemployment and housing shortages that were occurring during this time, the Public Works Administration Housing Division was established in 1933. Initially conceived as a job creation program rather than a solution to the housing shortage, it constructed approximately 25,000 housing units around the country. In 1937 Congress created United States Housing Authority, providing federal funding to local housing authorities to develop, own and operate public housing for low-income families. Under this program, for the first time, income limits were established for residents, a feature that would continue throughout all subsidized housing programs that would follow.

The next major expansion of federal housing policy occurred in 1949 with the enactment of the Housing Act of 1949, declaring as public policy a national goal of "a decent home and suitable living environment for every American family." For the first time, public housing was seen as part of urban renewal, providing federal funds for area redevelopment and a goal of constructing 810,000 public housing units over a six-year period. President Lyndon Johnson's Great Society

¹ This article draws heavily from a presentation prepared for the Special Needs Alliance by Patricia Nelson Reade and Emily Starr.

program saw the adoption of the Urban Development Acts of 1965 and 1968 which created the Department of Housing and Urban Development (HUD) and introduced the concept of the rent supplement program providing direct rental assistance to low-income families.

The Housing and Community Development Act of 1974 brought us the Section 8 Program, officially known as the Housing Choice Voucher Program, Multifamily Housing (sometimes referred to as “project based” Section 8) and Public Housing. It also consolidated many of the various programs into Community Development Block Grants. This represented a fundamental shift from the government as the housing provider to the government assisting private markets in developing housing solutions that addressed the specific needs of a given community. Since then, each succeeding administration has modified various aspects of the existing programs to suit particular economic philosophies and theories, sometimes expanding, sometimes contracting, the level of federal support and the types of projects being supported. The definition of “eligibility” and “low Income” has also changed over time. But through it all, the basic Section 8 Program remains the fixture and essential core of rental assistance for low-income individuals in the country. In 2023, of the 5.2 million American households receiving some form of federal rental assistance, 2.3 million receive that assistance through the Housing Choice Voucher Program.²

Other than for Multifamily Housing projects (MFH or project-based Section 8), virtually all federally subsidized housing programs are administered at the local level through Public Housing Authorities (PHAs). PHAs are public agencies created by state enabling statutes and can exist at

² Center on Budget and Policy Priorities, United States Federal Rental Assistance Fact Sheet

the municipal, county or state level. HUD contracts with the PHAs for public housing and supplies the operating and capital funds. In addition, through contracts with HUD, PHAs usually manage their local Section 8 Programs.

To obtain Section 8 housing assistance, the applicant must meet specific income limitations that generally require that the applicant's income does not exceed 50% of the median income in the applicant's area, adjusted for the size of the family. "Income" includes Social Security, disability benefits, pensions, annuities, alimony, some types of welfare payments and regular contributions from others. Income does not include temporary, infrequent or one-time receipts including gifts, reimbursements for medical expenses, and lump sum distributions such as inheritances, insurance payments or capital gains. Once the applicant is approved, it is up to the applicant to locate a housing unit and a landlord willing to participate in the program. Most if not all PHAs maintain lists of properties and participating landlords. However, the current reality in most cities is that the need far exceeds the demand and waiting lists are long.

In a Multifamily Housing situation, HUD contracts directly with the not- for- profit or for-profit entity owning/operating the units. In Multifamily Housing the subsidized rent stays with the unit rather than being a voucher the family can take with them if they choose to move.

Section 8 Housing Choice Vouchers v. Section 8 Multifamily Housing. The Section 8 Program operates in two different ways. In the Tenant-Based Housing Choice Voucher Program the tenant receives a voucher from the PHA which the Tenant can then take to any qualified property and present it to the landlord. The Voucher is mobile - if the Tenant wants to move, the

Tenant can take the voucher to another property, and the property owner can choose to accept the Section 8 Voucher on a case-by-case basis.

In a Section 8 Multifamily/Project Based program, the property owner contracts directly with HUD or the PHA to, in effect, obtain vouchers on the property owner's units. The subsidy is tied to the unit, not to the tenant, and when a tenant moves out, the unit goes to another qualified tenant. In MFH Project Based programs the property owner generally commits the units to the program for set periods of time.

Section 202 & 811 Programs. The Section 202 Program of Supportive Housing for the Elderly is, as the name implies, a separate program that provides federal funds and project rental assistance for housing projects that serve “elder households.” “Elder households” are defined as a household consisting of one or more persons who are at least 62 years old at the time of occupancy. Unlike Section 8, Section 202 housing provides services designed to meet the specific needs of a senior community. Similarly, Section 811, Supportive Services for Persons with Disabilities. Both are types of Project-Based Housing.³

HOTMA Background and Compliance Deadlines

On 7/29/2016 President Barack Obama signed the Housing Opportunity Through Modernization Act of 2016 (HOTMA). Sections 102 (income reviews and revised definitions of income and

³ For a good general discussion of federal subsidized housing programs, see chapter 12 of David English, H. Amos Goodall & Rebecca Morgan, *Tax, Estate & Financial Planning for the Elderly* LexisNexis (2024).

assets) and 104 (establishing asset limits) greatly expanded HUD's authority to set standards on how income and resources are treated for eligibility and rental calculations.

HUD issued final regulations relative to HOTMA's income and asset provisions on 2/14/2023.

The effective date was initially 1/1/2024 to give Public Housing Agencies (PHAs) and Multifamily Housing (MFH) owners time to develop and implement changes.⁴

HUD subsequently issued notices providing guidance regarding HOTMA's implementation.

Issued on 9/29/2023 Notice H 2023-10 PIH 2023-27 extended the final implementation date to January 1, 2025. A revision of that Notice, issued on February 24, 2024, made some changes to the earlier Notice. The revised Notice is found at Exhibit A to this paper and is referred to

⁴ HOTMA applies to the following programs:

Public Housing Authorities (PHAs). Sections 102 (income reviews and revised definitions of income and assets) and 104 (establishment of asset limits) apply to all Public Housing Authorities (PHAs) operating Housing Choice Voucher (HCV), Public Housing, Section 8 Moderate Rehabilitation and Section 8 Moderate Rehabilitation Single Room Occupancy.

Multifamily Housing (MFH).

- Section 102 (income reviews and revised definitions of income and assets) applies to the following programs administered by Multifamily Housing (MFH) Owners: Section 8 Project Based Rental Assistance (PBRA); 202/8, 202/162 Project Assistance Contract (202/162 PAC); Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC); non-insured 236 projects with Interest Reduction Payments (236 IRP); Section 811 Project Rental Assistance Demonstration (811 PRA); and Senior Preservation Rental Assistance Contracts (SPRAC). These types of projects are delineated by the type of federal funding and tenant population the projects serve.
- Section 104 (asset limitations and exceptions) applies to the following programs administered by Multifamily Housing (MFH) Owners: Section 8 Project Based Rental Assistance (PBRA) and 202/8 (loan funding for projects for elderly and disabled from 1976-1991). Section 104 does not apply to the following programs: Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC) (since 1991 capital advances for projects for elderly and disabled persons); non-insured 236 projects with Interest Reduction Payments (236 IRP); Section 811 Project Rental Assistance Demonstration (811 PRA); and Senior Preservation Rental Assistance Contracts (SPRAC). Some or all of these are supportive housing programs for the elderly or persons with disabilities that provide housing and support activities such as cleaning, cooking and transportation.

throughout this paper as the “2/2/24 Notice.” There are 10 Attachments to the Notice which provide information somewhat like the Social Security’s POMS: detailed instructions for implementing the rules as modified by HOTMA. They will eventually be incorporated into HUD’s Occupancy Handbooks.

Compliance deadlines have been extended further. Relative to PHAs, on December 17, 2024, Notice PIH 2024-38 announced a firm deadline of July 1, 2025 for PHAs to implement HOTMA income exclusions as well as Section 102/104 definitions and provisions related to de minimis errors but stated that “This compliance deadline does not apply to other provisions.” Those deadlines are still to be determined. See Exhibit B to this paper.

Relative to MFHs, on May 29, 2025, HUD published Housing Notice H-2025-03, extending compliance for HOTMA Sections 102 and 104 to January 2026. See Exhibit C to this paper.

Assets

See Exhibit I: Assets, Asset Exclusions, and Limitation on Assets Resource Sheet

When and on whom are asset limits imposed. Until the effective date of HOTMA, there are no restrictions on assets: the income from assets is counted to determine income eligibility and the calculation of rent but there is no asset limit. HOTMA imposes eligibility criteria based not only on income but also on assets. The HOTMA asset rules will be described below. However, it is important to distinguish between the imposition of assets limits on existing tenants and new tenants. Relative to existing tenants, MFH owners have discretion as to whether to impose asset limits and are required to include their policies in their Tenant Selection Plan and policies and

procedures and make them publicly available. PHAs have the same discretion regarding asset limitations and must update their Public Housing Admission and Continued Occupancy Policies (ACOP) and HCV Administrative Plans to reflect HOTMA discretionary decisions.

Their discretion is not all or nothing. Depending on the policies adopted by the respective PHAs and MFH owners, the new asset limits (i) may be disregarded for existing families or may cause families who have resided in subsidized housing for years to lose eligibility and (ii) may or may not be disregarded at the time of recertification. Specifically the options are (1) total non-enforcement during the household's annual and interim reexaminations which must be applied to all households; (2) enforcement requiring the PHA or MFH Owner to initiate termination of housing assistance or initiate eviction within six months of the reexamination that found the family out of compliance with the asset limits; (3) limited enforcement pursuant to a written policy to provide up to six months to cure noncompliance after the effective date of the families' annual or interim recertification; or (4) establishment of exceptions allowing total non-enforcement or limited enforcement for families based on family type, taking into consideration factors such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. For PHAs see Exhibit E: Public Housing and Housing Choice Voucher Program, List of Discretionary Policies to Implement HOTMA and for MFH owners, see Exhibit F. See Exhibit G. for a sample of an ACOP election on these issues.

The new asset limitations provide that families (persons residing together) are ineligible for admission to Section 8 housing, voucher and MFH if they own (i) \$100,000 (now \$103,200

adjusted by inflation for 2025) or more of net family assets; or (ii) real property suitable for occupancy. See Exhibit H to this paper for Inflation-Adjusted values.

In respect to real property suitable for occupancy, 24 CFR 5.618(a)(ii)) provides that a family is ineligible if it has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on state laws, real property that is *suitable for occupancy* by the family as a residence. The family can show that the property is not *suitable for occupancy* because (i) the property does not meet disability related needs for all family members; (ii) is not sufficient in size for the family; (iii) the location is a hardship; (iv) the property is unsafe; or (v) the property cannot be a residence due to local laws. If any of these conditions exist, the family ownership of such property would not pose an eligibility problem for the family: however, the household could nevertheless be out of compliance with any applicable asset limit as its value could be included in the valuation of net family assets which cannot exceed \$100,000 (now \$103,200 adjusted by inflation). This restriction on real estate suitable for occupancy does not apply to the program for manufactured home and home ownership option (see 24 CFR §982.620); property owned jointly with another owner who is not a member of family who resides in the jointly owned real property; a victim of domestic violence; and a family that is offering the property for sale.

Net family assets are defined as the net cash value of all assets owned by the family (*persons residing together*) after deducting reasonable costs that would be incurred for disposing of real property, savings, stock, bonds and other forms of capital investments. See Exhibit I to this paper, the “2/2/2024 Notice, Attachment F.4.a.” A family, for income and asset purposes, is

generally a single person or two or more people living together who are related by blood, marriage, adoption and may include persons who are not related but who reside together and share resources. See “2/2/2024 Notice, Attachment J.”

Net family assets also include the value of any business or family asset disposed of by an applicant or tenant for less than fair market value (including a disposition in trust) during the two years preceding the date of application or reexamination, in excess of the consideration received and costs of disposal. A footnote in “2/2/2024 Notice, Attachment F.4.a.” states “A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family.” Thus, an important option for a family which has excess assets is to transfer the excess assets to an irrevocable trust with a trustee not within the family assistance unit and to provide that the irrevocable trust cannot be significantly amended by a member of the family assistance unit. (See more on trusts below). This would remove the excess assets entirely: they would not be included for the subsequent two years. Before implementing this planning strategy, the implication of distribution of income from the trust, as discussed below, must be considered as well as other public benefits on which the family may be relying on or may rely on in the future.

The total value of an asset jointly owned by the family and another person(s) outside of the assisted family is included in the net family assets unless the asset is otherwise excluded under the definition of net family assets at 25 CFR §5.603(b), the family can demonstrate that the asset

is inaccessible to it, or the family cannot dispose of any portion of the asset without the consent of a joint owner who refuses to comply. See Exhibit I.

There are many federally mandated asset exclusions (25 CFR 5.603(b)(3) – (b)(4)), “2/2/24 Notice, Attachment F.4.b.” Among the items that are excluded from net family assets are

- Retirement accounts recognized by the IRS;
- Assets held in an irrevocable trust not under the control of a member of the family or household;
- Assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee are not members of the family or household;
- Tax refunds or refundable tax credits for 12 months after receipt;
- Real property that family does not have effective legal authority to sell;
- Civil action or settlement proceeds for an incident resulting in disability based on malpractice, negligence or other breach of duty;
- Section 529 education and 529A ABLE accounts and Coverdell education accounts;
- Interests in Indian trust land;
- Family Self-Sufficiency accounts, and
- Value of all *necessary items* of personal property (items essential to the family for maintenance, use and occupancy of the home, or necessary for employment, education, or health & wellness) as well as *non-necessary* items of personal property (all personal property that does not qualify as necessary) with a total combined value of less than \$50,000 (now \$51,600 as adjusted by inflation). Real estate is never considered personal

property, so its value is always included in net family assets unless it meets a different exclusion. See “2/2/24 Notice, Attachment F.4.c.”

Necessary Personal Property	Non-Necessary Personal Property
• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care–related supplies • Musical instruments used by the family	• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

Self-Certification for Families with Assets of \$50,000 (now \$51,600 adjusted by inflation) or

Less. At admission and at recertifications, PHAs and MFHs may accept a family’s self-certification of net family assets if they are equal to or less than \$50,000 (now \$51,600 adjusted by inflation) and anticipated income earned from assets without taking additional steps to verify accuracy. PHAs and MFHs which choose to accept self-certification of net family assets are required to fully verify net family assets every 3 years. PHAs must include their policy for self-

certification in their ACOPs and Administrative Plans and MFHs must include their policy for self-certification in their Tenant Selection Plans. A Sample Net Family Asset Self-Certification Form is found in Exhibit A, “2/2/2024 Notice, Appendix, pg. 127).”

Income.

See Exhibit J: Income and Income Exclusions Resource Sheet

Annual Income: (24 CFR 5.609)ⁱ Income is broadly defined and includes:

- all amounts, not specifically excluded by regulations, received from all sources by each member of the family 18 years or older,
- unearned income of dependents under 18 years of age, and
- imputed income on net family assets in excess of \$50,000 (now \$51,600 adjusted by inflation) when actual income cannot be calculated. Imputed income is based on current passbook savings rate (which will now be adjusted annually) and published in <https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html>. It is based on the FDIC National Deposit Rate for Savings Accounts.

The income generated by an asset which has been given away during the preceding two years, if it is still counted as an asset for eligibility purposes, is also counted. (See “Net family assets also include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value” above.) Other than for household members under the age of 18, there is no distinction between earned and unearned income. Non-monetary in-kind donations such as

food or clothing received from a food bank or similar organization is not counted but apparently bill payments on behalf of a household member is treated no differently than a gift of cash. See the answer to the following FAQ in Exhibit K (page 4). “Are car payments or car insurance paid by someone outside of the household considered ‘in-kind’ donations.”.

Income exclusions: (24 CFR 5.609(b)(22)), “2/2/24 Notice, Attachment G and Exhibit J.

HOTMA has modified (or more clearly described) the sources of income that are excluded. A comprehensive list of income exclusions can be found on pages 8 and 9 of Exhibit J.

Of greatest interest to most of our clients are

- Non-recurring income (replaces “temporary, nonrecurring or sporadic income”) – income that will not be repeated beyond the coming year based on information provided by the family such as gifts for significant life events (birthdays, weddings, anniversaries, tax refunds, non-monetary in-kind donations from a food bank or similar organization);
- Distributions of trust principal from revocable or irrevocable trusts so long as the trust is not considered part of net family assets (see HOTMA’s new treatment of trusts below);
- Distributions of trust income for health and medical care of a minor (see HOTMA’s new treatment of trusts below);
- Income earned on ABLE accounts and distributions from ABLE accounts for qualified disability expenses (See Exhibit D);

- Imputed income on assets when net family assets are < \$50,000 but actual income is included if it can be determined;
- Lump sum additions to net family assets such as lottery winnings, inheritances, insurance settlements for property losses;
- Distributions from retirement plans such as IRA, employer retirement plans and self-employed retirement plans other than periodic payments;
- Lawsuit judgments or settlements based on a claim of malpractice, negligence or other breach of duty that resulted in disability whether received as a lump sum or periodically;
- All earned income by children under age 18;
- Payments received for care of foster children or adults;
- VA Aid and Attendance to the veterans only (payment to veteran's spouse or surviving spouse is not disregarded);
- Loan proceeds received by the family or by a third party on behalf of the family (i.e. car dealership or educational institution);
- Retroactive SSI, Social Security or VA disability benefits;
- Various student financial assistance including distributions from 529 plans.

Of interest is that the earned income disregard has been eliminated for all families other than those participating in the disallowance as of 12/31/2023. (24 CFR 5.611), "2/2/2024 Notice, Attachment G.20."

Income Determinations: (24 CFR 5.609(c)), “2/2/24 Notice, Attachment I.”

At the time of application, or during an interim reexamination, income is calculated based on anticipated income. At the time of annual recertifications, unless the PHA/MFH Owner chooses to use a safe harbor income determination, income is calculated based on the income the family received during the preceding 12 months (not the preceding calendar year).

Safe Harbor. 24 CFR 5.609(c)(3), “2/2/2024 Notice, Attachment J.4.”

PHA/ MFH owners can chose to use “Safe Harbor” income determinations which are income determinations by other specified means tested programs. PHAs and MFH owners must establish a policy as to whether they are using Safe Harbor income determinations to verify a family’s income and, if so, from which programs they will accept income determinations. If they rely on Safe Harbor income determinations, they are not supposed to inquire further about a family’s net family assets or the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitations of 24 CFR 5.618. “2/2/24 Notice, Attachment J.4.”

Deductions 24 CFR 5.603, 5.611, “2/2/2024 Notice, Attachment C.”

There are both mandatory and permissive deductions to be applied to income. They are spelled out in detail in Attachment C. They include a \$480 dependent deduction and a \$525 elderly/disabled family deduction. Notably, the deduction for excess unreimbursed health and

medical care and reasonable attendant care and auxiliary expenses, which is being phased in over 24 months for families receiving the deduction as of 1/1/2024, is limited to the amount that exceeds 10% of family's income. Previously it was the amount in excess of 3%. "2/2/2024 Notice, Attachment C.4.a."

Hardship Exemptions "2/2/2024 Notice, Attachment C.4. et seq."

Hardship exemptions are established for families unable to pay rent due to loss of childcare expense deductions, families with increased medical/disability expenses or who experience financial hardship due to change in circumstances that would not otherwise trigger interim reexamination.

Verification of Income: "2/2/2024 Notice, Attachment Table J.2."

Income can be verified in various ways. There is a hierarchy of verification sources described in "2/2/24 Notice, Table J.2." The sources range from utilizing an EIV report (Enterprise Income Verification system) to written third party verification to self-certification. The Enterprise Income Verification System provides a comprehensive on-line system for verification of resident information and income to determine rental subsidies and relies on data sharing agreements with SSA and HHS.

Reporting Obligation: 24 CFR 5.657, “2/2/2024 Notice, Appendix I.5.”

Families must report changes in household composition and in income according to policies established by PHAs/MFH Owners describing when and under what conditions families must report changes.

Over-Income Public Housing Families: 24 CFR 960.507(d), 24 CFR 960.102(b), “2/2/2024 Notice, Attachment 1.3.”

PHAs may adopt a policy that allows families whose income exceeds the income limit for more than 24 months to pay alternate non-public housing rent. Otherwise, PHAs must terminate the tenancy within six months after the final notification (after the 24-month grace period). See Exhibit L. The policy for over-income families applies to public housing and does not appear to apply to MFH or to the Section 8 voucher program.

HOTMA Treatment Of Trusts

This section will discuss how the drafters and Trustees of SNTs can and should respond to the changes HOTMA has made to the treatment of assets and income to make sure they are taking adequate steps to protect their Beneficiary’s status and make sure their documents are drafted and administered in a way that takes the Beneficiary’s status into account when making distributions.

Asset Limits & Trusts

As noted above, under the new HOTMA asset limitations, families are ineligible for admission to both the Section 8 Voucher program and the Multifamily Housing program if they own more than \$100,000 (\$103,200 adjusted by inflation in 2025) in assets that are not excluded from family assets under 25 CFR 5.603(b)(3)-(b)(4) (see Exhibit I).

Among the most important excluded assets for our purposes are:

- Proceeds from civil actions or settlements based on malpractice, negligence or other breach of duty for an incident that results in disability
- 529 Plans and ABLE Accounts;
- Assets held in an irrevocable trust where a family member is the beneficiary, but the grantor and trustee are not members of the family or household, and no family member can have the power to revoke or substantially amend the trust.

Thus, it would seem that most 1st party SNTs funded with litigation proceeds will be considered excluded assets. Further, since the definition of “family” in Section 8 means persons residing together, a 3rd party irrevocable SNT created by other family members that satisfies the requirements noted above should also be excluded from the definition of “assets.”

Treatment of “Income” Received by the Trust

As discussed above and as set out in Exhibits G and H, a number of items defined by HOTMA as “income” are excluded in determining the tenant’s countable income and therefore, if these **items** **are** contributed to a SNT, the item becomes an excluded part of the corpus of the Trust.

Among the items that are excluded from the definition of “income” are “non recurring income” such as birthday or wedding presents, inheritances, lottery winnings, tax refunds and proceeds from judgments or settlements from malpractice, negligence or other breach of duty resulting in disability (even if paid in periodic payments) and, therefore, if they are contributed to the SNT by the tenant or contributed directly to the SNT by the donor, they should not constitute countable income (emphasis on “should”).

Treatment of Income Distributed from Trusts

As noted above, “income” has a broad definition and there are many, many exclusions from the definition calling to mind Humpty Dumpty’s statement in “Alice’s Adventures In Wonderland” “When I use a word, it means just what I choose it to mean - neither more nor less.” Thus, for our purposes in the HUD-HOTMA-SNT world, the following items are not income:

- Income earned on and distributions made from ABLE Accounts for qualified disability purposes;
- Non-recurring income (formerly called “temporary, non-recurring or sporadic income”);

- Distributions of trust principal from revocable or irrevocable trusts so long as the trust is not considered part of family net assets;
- Distributions of trust income to reimburse or pay for health or medical expenses of a minor child;
- Judgements or settlements based on a claim of malpractice, negligence or other breach resulting in disability.

An analysis of what constitutes “countable income” from a trust say and what the HOTMA Notice says leads some to believe that the only distributions of trust income that aren’t countable are distributions to pay for health or medical expenses of a minor child. However, it is the opinion of one of the authors that that interpretation is not necessarily correct. A non-recurring distribution from a SNT that contained trust income should (again, note “should”) qualify as “not income.”. Given the convoluted definitions of “income” and “assets” reasonable minds can and will differ.

Drafting and Administrative Challenges

If the question of whether or not the SNT’s beneficiary’s family are or may be participants in the Section 8 Voucher Program is not already in your checklist, it should be. If it is, the next question is, which PHA/MFH are they in? As noted above, PHAs and MFHs have latitude in how they administer/enforce various aspects of the new HOTMA Regulations. This information may not change how you, if you’re the drafting attorney, draft the SNT, but hopefully it will sensitize you to more carefully review some of your “usual” language in light of your

Beneficiary's status. For example, if you draft a section describing types of discretionary distributions the Trustee may consider making, you may want to include a specific reference to "non-recurring" distributions (either to consider not making them if it would result in countable income), or as a positive suggestion that this is something the Trustee could consider.

If you're the drafting attorney, consider giving adding language directing the Trustee to pay Trust administrative expenses, such as legal and accounting fees and taxes, with income first so that the income is consumed "internally" and only principal is distributed.

As the HOTMA Regulations roll out, try to keep current on what your local PHAs and MFHs are doing.

Know Thy Corpus. The drafting attorney and the Trustee should verify the source of funding of the SNT. There is no question that inheritances, settlements and judgments are not countable, nor are gifts or other "temporary," "one-time" or "infrequent" income. Both the drafting attorney and the Trustee should obtain enough information regarding the source of a contribution to a SNT to satisfy any inquiries from a PHA or MFH regarding the source of the funds.

Consider Segregating Income. As noted above, the income generated by a SNT and distributed to the Beneficiary is includable in calculating the tenant/beneficiary's annual income. Therefore, in order to avoid questions about what IS a distribution of income (countable) and what is a distribution of principal (not countable), Trustees should consider keeping earned income separate from principal and maintain records that clearly identify the income and for what

purpose it was distributed. Remember that some expenditures such as reimbursement for medical expenses of a minor are excluded from income. So if it can be shown that the income from the SNT Sub-Account was used for a purpose that is excluded from income, the income will not be counted.

Be Careful of Recurring Periodic Distributions. Remember that regular recurring periodic distributions are treated as income. While it is true that no distribution of principal from a SNT should be considered income, a PHA or MFH could take the position that regular periodic distributions are counted as income even if they are principal. This does not mean Trustees shouldn't make regular, periodic distributions where appropriate. The Trustee simply needs to be aware of the issue and be prepared to deal with it if it comes up. Unfortunately, historically, the definition of "non-recurring" seems to vary from region to region and PHA/MFH to PHA/MFH, so again, know your PHAs and MFHs.

The "In-Kind/Recurring Distribution Conundrum

Under HOTMA non-monetary in-kind donations such as food, clothing or personal items received from a foodbank or a non-profit are not counted as income even if they occur regularly. However, as indicated in the FAQ on page 4 of Exhibit K, if an outsider is making car payments or paying for car insurance, that is considered "bill paying" and is considered income. But what if these items are being paid for out of the principal of the SNT? Does that convert the principal distribution which is not countable as income into countable income? Do the attorneys representing the Trustees need to advise them that it's "probably" OK to buy the cell phone, but

not pay the cell phone bill? Can the Trustee give the Beneficiary a Truelink card properly coded so that it can be used for food, clothing, “personal item” but not to pay bills? At this point, I do not believe we have answers and again, a lot will depend on how each PHA/MFH applies the rules.

Don’t Be Afraid to Advocate. All politics is local (as someone once said), and there is nothing more “local” than the way individual PHAs and MFHs interpret and apply the rules. Don’t hesitate to advocate on behalf of your beneficiaries and your Trustees whenever appropriate.

Conclusion

HOTMA will impact clients relying on federally subsidized housing once they are implemented though the new asset regulations may be applied to existing tenants differently than to new applicants for housing. Rent may increase due to new income definitions. Existing trusts and trusts to be drafted for a beneficiary who may rely on HUD subsidized housing may need to be modified. There will likely be significant confusion by PHAs and MFH owners and possibly incorrect or incomplete notices issued to tenants. As there is so much discretion given to PHAs and MFH owners, it is critical to consult the ACOPs and Tenant Selection Plans of the applicable PHA or MFH to determine the actual rules that will be applied to any tenant once HOTMA is implemented.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Housing Office of Public and Indian Housing

Special Attention of:

Multifamily Asset Management Division
Directors
Multifamily Contract Administrators
Multifamily Project Owners
Multifamily Regional Center Directors
Public Housing Agencies
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional Directors
Field Office Directors
Resident Management Corporations

Notice H 2023–10**Notice PIH 2023–27**

Issued: February 2, 2024

Originally issued September 29, 2023

Expires: This Notice remains in effect until amended, superseded, or rescinded.

Cross References:

Regulations: 24 CFR Parts 5, 882, 891, 960, 966, 982

Office of Housing Notices: H 2020–06; H 2019–06; H 2016–01; H 2015–12

Office of Public and Indian Housing Notices: PIH 2019–09; PIH 2017–05 (HA); PIH 2016–05; PIH 2015–21; PIH 2013–04 (HA); PIH 2012–29; PIH 2012–03; PIH 2012–1 (HA)

Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)**1. PURPOSE**

The purpose of this notice is to provide guidance to Public Housing Agencies (PHAs) and Multifamily Housing (MFH) Owners on the implementation of the many program changes brought about by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) sections 102 and 104 and detailed in the final rule published in *Federal Register* Notice 88 FR 9600 on February 14, 2023. Although the final rule addresses sections 102, 103, and 104, this notice addresses guidance for sections 102 and 104 only.¹

Through this notice, HUD is also modernizing its documentation requirements to reduce the burden on families accessing housing assistance in support of Office of Management and Budget (OMB) Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*.

¹ The Office of Public and Indian Housing (PIH) published a separate notice on section 103 of HOTMA. See *Supplemental Guidance for Implementation of Section 103; Limitation on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016 (HOTMA)* (Notice PIH 2023–03 (HA)).

2. BACKGROUND

HOTMA was signed into law on July 29, 2016 (Public Law 114–201, 130 Stat. 782). The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. On September 17, 2019, HUD issued a proposed rule to update its regulations according to HOTMA’s statutory mandate. The proposed rule may be found at 84 FR 48820 (September 17, 2019).

Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews.

Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. **Section 104** sets maximum asset limits for Public Housing and Section 8 applicants and participants.

Section 102 of HOTMA applies to all PHAs operating a Housing Choice Voucher (HCV) (including Project-Based Vouchers), Public Housing; Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation Single Room Occupancy (SRO), including Moving to Work (MTW) Agencies (see Section 4 (Notice Applicability) of this notice). Section 102 also applies to the following programs administered by MFH: Section 8 Project-Based Rental Assistance (PBRA), 202/8, 202/162 Project Assistance Contract (202/162 PAC), Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC), non-insured 236 projects with Interest Reduction Payments (236 IRP), Section 811 Project Rental Assistance Demonstration (811 PRA), and Senior Preservation Rental Assistance Contracts (SPRAC).² Section 102 is effective on January 1, 2024.

Section 104 of HOTMA applies to all PHAs operating an HCV, Public Housing, Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation SRO program, including MTW Agencies (see Section 4 (Notice Applicability) of this notice). Section 104 also applies to the following programs: Section 8 PBRA and 202/8. Section 104 does not apply to following programs: 202/811 PRAC, 236 IRP, 811 PRA, 202/162 PAC, and SPRAC. Section 104 is effective on January 1, 2024.

HUD, through rulemaking,³ implemented sections 102 and 104 through several changes to the following Public Housing and Section 8 regulations:

- 24 CFR Part 5: General HUD Program Requirements; Waivers
- 24 CFR Part 882: Section 8 Moderate Rehabilitation Programs
- 24 CFR Part 960: Admission to, and Occupancy of, Public Housing
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

²HUD administratively extended the applicability of Section 102 of HOTMA to the following programs: 202/162, 202/811 PRAC, 811 PRA, and SPRAC.

³ *Federal Register*: Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104.

HUD also made conforming changes to its regulations found in 24 CFR Part 891, which govern the Section 202 and 811 Capital Advance programs and the Section 202 Direct Loan program (202/8). These programs are affected by various changes to the income regulatory provisions in 24 CFR Part 5. HUD, in error, did not make conforming changes to certain Section 202 Direct Loan regulations, consistent with the HOTMA final rule, in 24 CFR Part 891, Subpart E, including 891.655, 891.740, and 891.750, which govern 202/162 PAC projects. HUD published conforming changes to the Section 202/162 PAC program regulations as a technical correction that will become effective on January 1, 2024.⁴ The revised Section 202 Direct Loan regulatory references in this notice will become effective with the effective date of the forthcoming technical correction.

Note: The final rule does not otherwise revise or modify any other federal laws or regulations. PHAs/MFH Owners must continue to follow all laws and regulations as codified in statute and in the Code of Federal Regulations.

2.1 Technical Corrections and Clarifications

HUD has updated Attachment A to address the asset limitation found in Section 104 of HOTMA and replaced the previous Attachment A that included placeholder language. In addition, HUD has made several technical corrections and added clarifying language throughout the notice, based on feedback from stakeholders and further analysis of the HOTMA Income and Assets Final Rule and related laws and regulations. These changes from the previous version of the notice published on September 29, 2023, are listed here as follows:

- Throughout the notice, HUD has added both the references to the 202/162 PAC program and the program's regulations as the conforming changes to the program were issued through the following *Federal Register* notice:
<https://www.federalregister.gov/documents/2023/11/02/2023-24236/section-202-direct-loan-technical-amendments>.
- In Section 6.1, HUD removed a sentence that incorrectly stated that PHAs must pick a compliance date that falls before the deadline for their PHA Plan submission. HUD also added MTW Plans to the list of documents requiring updates due to HOTMA.
- In Attachment B, subtopic B.2, HUD added clarifying language on the three-step process for calculating income, specifically for Step 2, adding that the PHA/MFH Owner may use the verification obtained during an interim reexamination for an annual reexamination if there have been no other changes to annual income since the interim reexamination. In Step 3, HUD replaced the word "paycheck" with "pay stub." In the example B1, HUD changed the SSA COLA amount to the actual 2024 COLA amount of 3.2 percent. In the example B3, HUD changed "four current and consecutive paystubs" to "two current and consecutive paystubs." In example B4, HUD changed the COLA amount to 3.2 percent and adjusted the calculations.
- In Attachment C, subtopic C.2, HUD clarified that while the elderly/disabled family deduction is effective on January 1, 2024, PHAs/MFH Owners will apply the new deduction amount to a family's next annual or interim reexamination, whichever is

⁴[Federal Register :: Public Inspection: Direct Loan Technical Amendments](https://www.federalregister.gov/documents/2023/11/02/2023-24236/section-202-direct-loan-technical-amendments).

sooner, following the date on which the PHA/MFH Owner implements the new elderly/disabled family deduction.

- In Attachment C, subtopic C.4.a, HUD clarified that the phased-in relief for the health and medical care expenses deduction will not start until after the PHA/MFH Owner implements the phased-in relief. Likewise, in the Phased-in Relief Timing Table (Table C1), HUD replaced the date of January 1, 2024, with the date on which the PHA/MFH Owner implements the phased-in relief.
- In Attachment C, subtopic C.5, HUD edited the phrase “age 12 and younger” to “under 13 years of age,” to align with HUD’s definition of “child-care expenses” in 24 CFR 5.603. HUD also clarified in this subsection that the amount of child-care expenses (not the expenses incurred to enable a family member to work) deducted from annual income must not exceed the amount of employment income that is included in annual income.
- In Attachment C, subtopic C.6.b, HUD edited the date by which PHAs/MFH Owners are encouraged to communicate the new hardship exemptions to applicants and families, replacing January 1, 2024, with the date on which the PHA/MFH Owner begins to comply with HOTMA.
- In Attachment C, subtopic C.7, HUD added another example of a permissive deduction that PHAs may choose to establish, which is the amount paid from a family’s annual income, and not another source such as Medicaid or a child welfare agency, for unreimbursed health or medical expenses of a foster child or a foster adult. In Attachment E, subtopic E.2, HUD clarified that PHAs may establish a permissive deduction to allow the unreimbursed health and medical expenses paid by the family on behalf of foster children and adults to be deducted from annual income.
- In Attachment F, subtopic F.1, HUD added clarifying language to address how PHAs/MFH owners must consider garnished, levied, or withheld wages or benefits.
- In Attachment F, subtopic F.4.e, HUD updated the method for subtracting federal tax refunds and refundable tax credits from assets to accurately reflect the statutory and regulatory requirements of HOTMA. Previously, the notice stated that the tax refund was to be subtracted from the asset account into which the tax refund amount was deposited. To align with HOTMA, the tax refund must instead be subtracted from the total value of net family assets. HUD deleted the reference to a tax refund or refundable tax credit that is deposited into an excluded asset, as this is incorrect. The tax refund/credit amount must be subtracted from total net family assets, regardless of where the amount is deposited. In example F2, HUD clarified that the Rodriguez family owns a total of \$10,000 of net family assets.
- In Attachment F, subtopic F.5, with regard to the start date for using the HUD-published passbook rate, HUD updated the date of January 1, 2024, with the date on which the PHA/MFH Owner implements the new passbook rate, and added clarifying language on PHA flexibility around passbook rates up until they implement the new passbook rate.

- In Attachment F, subtopic F.6.b, HUD added clarifying language on how PHAs/MFH Owners are to impute asset income using the HUD-published passbook rate.
- In Attachment G, subtopic G.1.f, HUD clarified that non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income.
- In Attachment G, subtopic G.6, HUD clarified that workers' compensation payments, regardless of the length or frequency of the payments, are always excluded from annual income. HUD updated example G6 to reflect this clarification.
- In Attachment G, subtopic G.16.d, HUD corrected the example reference to example G13, and reversed the wording on the process for calculating the excess amount of student financial assistance to include in annual income. The previous one-step process, as described, was incorrect. This error was also corrected in Chart G2.
- In Attachment I, subtopic I.2, HUD clarified in the PHA/MFH Owner discretion section that PHAs/MFH Owners have discretion on whether to process earned income increases only if there has been a previous interim decrease since the last annual reexamination.
- In Attachment J, subtopic J.1, HUD added a clarifying footnote (J1) to reduce confusion about the Form HUD-9886/HUD-9887 requirements for family members who become a head of household, co-head, or spouse.
- In Attachment J, Table J1, HUD added instructions on the use of EIV for new admissions in the row on Income Information for PIH Programs and Income Report for MFH Programs. HUD also added a footnote reminding PHAs/MFH Owners that they must rely on other documents to verify families' reported income before admission.
- In Attachment J, Table J2, Level 6, HUD clarified that PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination, unless using Safe Harbor documentation to verify the family's income. HUD also added to the Level 1 row that self-certification may be used as the highest form of verification when the family reports zero income.
- In Attachment J, subtopic J.5.a, HUD clarified that PHAs/MFH Owners are required to obtain a minimum of two current and consecutive pay stubs for determining projected annual income from wages when they are relying on pay stubs for Level 4 documentation.
- HUD renamed subtopic J.8 in Attachment J to "Zero Income Procedures" and updated this section to include guidance to PHAs/MFH Owners on accepting families' self-certifications of zero income at admission and reexamination without taking further steps to verify the zero reported income.
- HUD added the Appendix: Sample Net Family Assets Self-Certification Form.

3. BURDEN REDUCTION AND PROGRAM ALIGNMENT

OMB Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*, challenges federal agencies to review documentation

requirements for those accessing public benefits programs like HUD's rental assistance programs. Through the process of implementing HOTMA, HUD has reviewed its verification and documentation requirements for admission and continued occupancy, including the use of HUD's Enterprise Income Verification (EIV) system in the Public Housing, Housing Choice Voucher, and the Multifamily Housing programs listed above. These programs share regulatory language around the requirement to obtain third-party verification of family annual income, the value of assets, expenses related to deductions from annual income and other factors that affect the determination of adjusted income (§§ 5.659(d), 960.259(c), 982.516(a)(2)).

Through this notice, HUD is aligning the timeframes within which documentation must be dated and the breadth of documentation required to verify tenant bank accounts and employment income across PIH and MFH programs. Consistency among HUD's programs will reduce burden among tenants who move from one program to another and among entities that administer multiple HUD programs.

4. NOTICE APPLICABILITY

HOTMA updates and creates new rules for programs administered by the Office of Public and Indian Housing (PIH) (HCV [including Project-Based Vouchers], Moderate Rehabilitation, Moderate Rehabilitation SRO, Public Housing), and programs administered by the Office of Multifamily Housing (MFH) (Section 8 PBRA, 202/8, 202/162 PAC, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC). HUD's revisions to the Part 5 income regulations also affect certain programs administered by the Office of Community Planning and Development (CPD).⁵ HUD reminds PHAs/MFH Owners that they are required to meet all program requirements on rental units assisted and/or developed by multiple HUD programs.

This notice applies only to the following programs:

- Housing Choice Voucher (HCV);
- Public Housing;
- Section 8 Moderate Rehabilitation (Mod Rehab);
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO);
- Section 8 Project-Based Rental Assistance (PBRA);
- Section 202/8 (202/8);
- Section 202/162 Project Assistance Contract (202/162 PAC);
- Section 202/811 Capital Advance with Project Rental Assistance Contracts (202/811 PRAC);
- Non-insured 236 projects with Interest Reduction Payments (236 IRP);
- Section 811 Project Rental Assistance (811 PRA); and

⁵ CPD will issue separate guidance on how HOTMA impacts its programs.

- Senior Preservation Rental Assistance Contracts (SPRAC).

The contents of this notice apply to PHAs participating in the MTW program except where an approved MTW waiver is in place. For example, MTW PHAs that have previously developed a different method of measuring prior-year income as part of the Rent Reform Demonstration or Stepped and Tiered Rent Demonstration may continue to use those methods after this notice takes effect. References to form HUD–50058 in this notice take on the meaning of form HUD–50058 MTW for MTW PHAs and form HUD–50058 MTW Expansion for MTW Expansion PHAs.

5. STRUCTURE OF THIS PUBLICATION

This notice is organized by distinct topic areas to assist PHAs/MFH Owners in identifying programmatic changes that affect their operations. Each topic area is presented as an attachment to the notice. Each attachment follows a uniform structure:

- Regulation(s)
- Affected Program(s)
- Summary of Change(s)
- Subtopics

Within each topic area, and in some cases within subtopic areas, the notice indicates whether PHAs/MFH Owners have discretion in establishing policies within their individual programs.

6. EFFECTIVE DATE, COMPLIANCE, AND UPDATES TO PHA/MFH OWNER POLICIES

The final rule’s effective date is January 1, 2024. HUD recognizes, however, that HOTMA includes significant program and systems changes and that PHAs/MFH Owners and families need time to understand the changes and implement them. HUD understands that the system development timeframes for the Housing Information Portal (HIP) and Tenant Rental Assistance Certification System (TRACS) make full implementation and compliance with the final rule by the January 1, 2024, deadline unlikely. Additionally, because these HOTMA changes apply to all current participants and new admissions, implementation of the HOTMA final rule cannot be achieved immediately on a universal basis but rather is an ongoing process that will happen over the course of a year as routine program activities occur. Subparagraphs 6.1 and 6.2 describe HUD’s implementation requirements by program office.

6.1 Compliance Date and Required Actions for PHAs (Office of Public and Indian Housing)

To comply with HOTMA, PHAs must be able to submit transactions to the Housing Information Portal (HIP). This requires the PHA’s software vendor to make system updates and fully convert to making all submissions to HIP. Each PHA will set its own compliance date as early as January 1, 2024, but no later than January 1, 2025. “Compliance” means, in this instance, utilizing the HOTMA rules as it applies to the affected programs and corresponding reporting in HIP. The Real Estate Assessment Center (REAC) will issue a separate HIP transition notice later this year.

Requirements for Updating PHA Annual Plans or Annual MTW Plans:

- The deadline to submit the updated PHA Annual Plan or Annual MTW Plan to HUD will depend on the PHA's fiscal year start date. However, the PHA's chosen compliance date should also be considered.
- The regulations (24 CFR § 903.5(b)(3)) require that a PHA submit its PHA Annual Plan 75 days prior to the beginning of its fiscal year. To best utilize the required PHA Plan process for review and discussion of the ACOP and HCV Administrative Plan at the public hearing, PHAs must also submit their PHA Annual Plan to HUD at least 75 days before their compliance date or their Fiscal Year start date, whichever is sooner. See Table 1, below, to determine the due date of your PHA's Annual Plan or Annual MTW Plan based on your fiscal year start date and compliance date.
- PHAs must update their Public Housing Admissions and Continued Occupancy Policies (ACOP) and HCV Administrative Plans to reflect HOTMA rules and discretionary decisions, including the required public notification and review.
- The plans will indicate that policies are not effective until the PHA's compliance date.

Note: PHAs must continue to follow their existing ACOPs and Administrative Plans until the PHA's software is compliant with HIP.

What PHAs must do once their software is HOTMA compliant:

- Each PHA will establish a compliance date based on when the PHA's software is able to submit to HIP. All transactions **effective** on the PHA's compliance date or later will be processed using HOTMA policies. In setting a compliance date the PHA must consider when its software will be ready to submit to HIP and the time needed to ensure that all transactions effective on that day are processed using HOTMA rules. For example, a PHA with a May 1, 2024, compliance date will need to send Annual Reexamination packets reflecting the HOTMA changes in January 2024. The PHA must inform the family as to whether their income determination is being conducted under the pre-HOTMA regulations or in accordance with the HOTMA final rule.
- PHAs must implement their revised ACOP and Administrative Plans.

PHA Annual Plan Due Date Based on PHA's Fiscal Year Start Date and Compliance Date:

The 4 columns on the right represent Fiscal Year Start Dates and the rows represent possible Compliance Dates. When a PHA determines its Compliance Date, it can use this table to determine the Annual Plan due date by locating the appropriate Compliance Date row and then finding the column with its Fiscal Year Start Date.

Table 1: Recommended Annual Plan Due Date

Compliance Date	FY Start: July 1, 2024	FY Start: October 1, 2024	FY Start: January 1, 2025	FY Start: April 1, 2025
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January 1, 2024	October 18, 2023	October 18, 2023	Oct 18, 2024	October 18, 2023
February 1, 2024	November 18, 2023	November 18, 2023	November 18, 2023	November 18, 2023
March 1, 2024	December 17, 2023	December 17, 2023	December 17, 2023	December 17, 2023
April 1, 2024	January 16, 2024	January 16, 2024	January 16, 2024	January 16, 2024
May 1, 2024	February 16, 2024	February 16, 2024	February 16, 2024	February 16, 2024
June 1, 2024	March 18, 2024	March 18, 2024	March 18, 2024	March 18, 2024
July 1, 2024	April 17, 2024	April 17, 2024	April 17, 2024	April 17, 2024
August 1, 2024	April 17, 2024	May 18, 2024	May 18, 2024	May 18, 2024
September 1, 2024	April 17, 2024	June 18, 2024	June 18, 2024	June 18, 2024
October 1, 2024	April 17, 2024	July 18, 2024	July 18, 2024	July 18, 2024
November 1, 2024	April 17, 2024	July 18, 2024	August 18, 2024	August 18, 2024
December 1, 2024	April 17, 2024	July 18, 2024	September 17, 2024	September 17, 2024
January 1, 2025	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024
Latest Submission Deadline	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024

By January 1, 2025:

Full compliance with the HOTMA final rule is mandatory effective January 1, 2025.

Compliance Example:

In March 2024, the PHA's software vendor says they will be ready to submit to HIP in June 2024. The PHA sets their compliance date as August 1, 2024, to allow for enough time to send out recert packets that reflect HOTMA changes in April 2024 for families with an August 1, 2024, annual reexamination effective date. The PHA's fiscal year start date is October 1, 2024. Based on the compliance date table above, the PHA determines that they must submit their updated Annual Plan to HUD by May 18, 2024. The PHA posts on their Web site that they will be applying the new HOTMA changes to all

transactions effective August 1, 2024. They also send notifications to participants, so they understand the new rules for reporting interim changes.

6.2 Compliance Date and Required Actions for MFH Owners (Office of Multifamily Housing)

By March 31, 2024:

- By March 31, 2024, MFH Owners must update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA rules and discretionary policies.
- MFH Owners must make the revised Tenant Selection Plan publicly available.

Note: MFH Owners must continue to follow their existing Tenant Selection Plans and EIV policies & procedures until the MFH Owner's software is compliant with TRACS 203A.

What MFH Owners must do once their software is HOTMA compliant:

Once a MFH Owner's software is HOTMA compliant (i.e., TRACS 203A system requirements have been fully implemented), the following things must happen:

- MFH Owners must provide tenants at least 60 days' notice that their lease will be modified at the end of the lease term after the expiration of the 60 days' notice. Once proper notice is given, MFH Owners must begin using the revised Model Leases at the expiration of a family's lease term.
- MFH Owners must implement their revised Tenant Selection Plans and EIV policies and procedures.
- All tenant data submissions must comply with the HOTMA regulations. Prior to their first reexaminations under HOTMA, MFH Owners must inform families that their income determinations will be conducted in accordance with the HOTMA final rule. As a best practice, HUD recommends that MFH Owners describe to families how their income determinations will change with the implementation of the final rule.
- MFH Owners must use the revised Tenant Consent form (form HUD-9887/9887A) and Fact Sheets ("How Your Rent is Determined").

How HUD will monitor MFH Owner compliance prior to January 1, 2025:

Prior to January 1, 2025, MFH Owners will not be penalized for HOTMA-related tenant file errors during Management and Occupancy Reviews (MORs). Instead, the Contract Administrator will issue observations with corrective actions.

By January 1, 2025:

Full compliance with the HOTMA final rule is mandatory effective January 1, 2025.

How HUD will monitor owner compliance on or after January 1, 2025:

- Contractor Administrators will issue HOTMA-related findings during MORs.
- MFH Owners must correct all HOTMA-related observations that were issued by Contract Administrators during 2024.

- MFH Owners who fail to implement HOTMA may be found in default of their business agreements with HUD.

Questions about compliance should be directed to MFH_HOTMA@hud.gov.

MFH Model Leases

MFH is updating the five program Model Leases to conform to the requirements in the HOTMA final rule. MFH Owners must begin using the new HUD-approved leases once HOTMA is fully implemented at the property.

The following information outlines the process that MFH Owners must follow to renew families under the applicable revised Model Lease:

- **Any modification to the lease may be effective only at the end of a lease term for all MFH programs.** Lease terms are listed in paragraph 2 in form HUD-90105-A (Section 8 Model Lease); paragraphs 1 and 9 in form HUD-90105-B (202/8 Model Lease); paragraphs 1 and 8 in form HUD-90105-C (202 PRAC Model Lease); paragraphs 1 and 8 in form HUD-90105-D (811 PRAC Model Lease); and paragraphs 1 and 8 in form HUD-92236 (811 PRA Model Lease).
- MFH Owners must provide families with copies of the HUD-approved lease at least 60 days prior to the end of a family's lease term.
- MFH Owners must include a letter clearly stating that the family can either accept the modification or move, but that a response is due from the family within 30 days.
- Families must either accept the modification by signing both copies of the modification and returning one to the MFH Owner⁶ or refuse the modification and give the owner a 30-day notice of intent to vacate.
- If, within 30 days, the family indicates that the modification is unacceptable or does not respond, the MFH Owner may begin the procedures for terminating tenancy.

The lease modification notice must be served to families in the following manner⁷:

- 1) The MFH Owner must send a letter by first-class mail, properly stamped, and addressed and including a return address, to the family at the unit address; **and**
- 2) The MFH Owner must deliver a copy of the notice to any adult person answering the door at the unit. If no adult answers the door, the person serving the notice may place it under or through the door or affix it to the door.

The date on which the notice is deemed received by the family is the later of:

- 1) The date the first-class letter is mailed; or
- 2) The date the notice is properly given.

⁶ Electronic signature is acceptable pursuant to Notice H 2020-10, except where not permitted by state and/or local laws.

⁷ 24 CFR § 247.4(b), as applicable to 24 §§ CFR 891.430(b), 891.630(b), and 891.770(b).

Service of the notice is deemed effective once the notice has been both mailed and hand-delivered. **MFH Owners are not permitted to deliver lease modification notices to families electronically.**

Families who are under old leases after the MFH Owner becomes compliant with HOTMA must continue to report income and household composition changes between annual reexaminations in accordance with their existing leases until they sign a revised lease. MFH Owners will be required to determine whether changes reported by families under the old lease will require an interim reexamination consistent with HOTMA's requirements. Since the remaining provisions reflect changes to existing regulatory provisions during the period of an existing lease, all other HOTMA final rule provisions can be implemented without the family's execution of a revised lease.

No other modifications may be made to the Model Leases without HUD's approval. MFH Owners may incorporate existing HUD-approved lease addenda into the revised Model Leases if the addenda do not conflict with the requirements of the final rule.

7. SUPERSEDED AND RESCINDED NOTICES

7.1 Guidebooks and Handbooks

This notice supersedes relevant portions of HUD's guidance as provided in the HCV Guidebook, the Public Housing Occupancy Program Guidebook, and the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs. HUD will update and replace all the sections and chapters listed below. Before consulting one of these resources, please ensure you are using a version dated after the publication date of this notice. Questions regarding the relevancy of existing handbook/guidebook guidance should be directed to the HOTMA mailbox maintained by each program office.

HCV Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Reexaminations

Public Housing Occupancy Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Income Determination
- Reexaminations

HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs chapters to be updated:

- Chapter 3. Eligibility for Assistance and Occupancy
- Chapter 4. Waiting List and Tenant Selection
- Chapter 5. Determining Income and Calculating Rent
- Chapter 7. Recertification, Unit Transfers, and Gross Rent Changes
- Chapter 9: Enterprise Income Verification (EIV)

- Glossary

7.2 **Housing and PIH Notices**

This notice supersedes and replaces the guidance provided in the following program notices:

- Exclusion from Annual Income of Temporary Employment from the U.S. Census Bureau (H 2020–06)
- Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System’s Identity Verification Report (PIH 2018–24)
- Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System (PIH 2018–18)
- Income Exclusion Under Temporary Census Employment and Census Access (PIH 2017–05)
- Passbook Savings Rate Effective February 1, 2016 (H 2016–01)
- Amendment to the Definition of Tuition (PIH 2015–21/H 2015–12)
- Guidance on Verification of Excluded Income (PIH 2013–04 (HA))
- Establishing the Passbook Savings Rate (PIH 2012–29)
- Housing Choice Voucher – Homeownership Option 10 Year Asset Exclusion (PIH 2012–03)
- Income Exclusion of Kinship, Kin-GAP and Other Guardianship Care Payments (PIH 2012–01 (HA))

Streamlining Administrative Practices in the Housing Choice Voucher program (Notice PIH 2012–15) is still useful for PHAs who are streamlining their programs. Numerous provisions in that notice are no longer applicable or additional flexibilities have been offered through more recent PIH notices. As it relates to the HOTMA final rule, however, the notice includes numerous recommendations surrounding interim reexaminations and annual reexaminations that are no longer applicable. Therefore, HUD is rescinding PIH Notice 2012–15.

The following sections of Streamlining Program Regulations for Programs Administered by Public Housing Agencies (Notice PIH 2016–05) are rescinded:

C: “Exclusion of mandatory education fees from income”

E: “Earned income disregard”

F: “Family declaration of assets under \$5,000”

N: “Family income and composition: regular and interim examinations”

The following Housing notices are partially rescinded by this notice:

- *Streamlining Administrative Regulations for Multifamily Housing Programs* (H 2016–09)
 - “24 CFR 5.216 – Verification of Social Security Numbers” (Section IV). This section of the notice states that an interim reexamination is required to add or update a household member’s Social Security Number (SSN).
 - “24 CFR 5.609 – Definition Change – Exclusion of mandatory education fees from income” (Section VI). This section of the notice references the outdated income exclusion in 24 CFR § 5.609(b)(9).
- *Section 811 Project Rental Assistance (PRA) Occupancy Interim Notice* (H 2013–24)
 - “Annual Recertification” (Section IV.F). This section of the notice states that MFH Owners must conduct interim reexaminations as described in HUD Handbook 4350.3 REV-1, Chapter 7.
- *Enterprise Income Verification (EIV) System* (H 2013–06)
 - “Using EIV Reports” (Section VII). This section of the notice states that MFH Owners are required to use EIV Income Reports as a third-party source to verify a tenant’s employment and income information during interim reexaminations.
 - “Use of EIV Reports” (Attachment 6). This attachment to the notice states that the use of EIV Reports (Income Report, Income Discrepancy Report, and Summary Report) is mandatory at interim reexaminations.

8. PAPERWORK REDUCTION ACT

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. The information collection requirements of this notice were assigned OMB Control Numbers 2577–0169, 2577–0295, 2577–0083, 2502–0204, 2577–0226, 2577–0282.

For questions regarding this notice please contact MFH_HOTMA@hud.gov for Multifamily Housing program questions or HOTMAQuestions@hud.gov for PIH program questions.

Julia Gordon

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ATTACHMENT A: TOPIC: ASSET LIMITATION

Regulations

24 CFR §§ 5.100 (real property); 5.603; and 5.618

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance), Section 202/8	Section 202/162 PAC, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	No	Yes

Summary

For the Public Housing and Section 8 programs (including PBRA and HCV), PHAs/MFH Owners must deny admission of an applicant if they are determined to not meet the requirements of the asset limitation (see paragraph A.1 and A.2 below).

PHAs/MFH Owners have discretion with respect to application of the asset limitation at annual and interim reexamination, as discussed in paragraph A.3 below. For the purpose of reexaminations, paragraph A.1 does not apply to PHAs/MFH Owners who establish total non-enforcement policies as described in paragraph A.3.a of this attachment.

Subtopics

A.1 Asset Limitation

This section describes the asset limitation. The enforcement options are described in subsequent paragraphs A.2. and A.3. A family is out of compliance with the asset limitation if they have either of the following:

- **Net family assets that exceed \$100,000, as adjusted annually for inflation.** See [Attachment F](#) (paragraph F.4.a) (Determining Net Family Assets) of this notice for the definition of net family assets. HUD will adjust this amount annually in accordance with the Consumer Price Index–Urban Wage Earners and Clerical Workers (CPI–W). See [Attachment H](#) (Inflationary Adjustments) of this notice for more information on inflationary adjustments. In determining whether the net family assets for a family exceed \$100,000 (as adjusted for inflation), a PHA/MFH Owner may accept a declaration from the family that their net assets do not exceed \$50,000 (as adjusted for inflation), without needing to further verify that declaration. See [Attachment F](#) (paragraph F.7) (Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted by inflation)) of this notice. For assets disposed of for less than fair market value during the two years preceding the date of application for the program or reexamination, as applicable, the difference in value between the consideration received and the fair market value must be included in net family assets.

- **Real property that is suitable for occupancy.** Real property means “real property as provided under the State law in which the property is located.”^{A1} Families are out of compliance if they have a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence. However, there are several exemptions to the real property restriction, discussed below in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation). In determining whether the family owns real property that would make them out of compliance, a PHA/MFH Owner may rely upon a self-certification, both at the time of admission and at reexamination, from the family stating that they do not have any present ownership interest in any real property. A PHA/MFH Owner could use a form that requests certification of the family’s present ownership interest in the property, and also inquire about the family’s legal right to reside in, and the effective legal authority to sell any real property that is suitable for occupancy by the family. If the family certifies that they do not have any present ownership interest in real property, the PHA/MFH Owner may take that as sufficient to determine the family is not out of compliance with the real property restriction. However, if the family owns real property, the PHA/MFH Owner must seek third-party verification of the family’s legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

Note: Ownership of real property is relevant to the asset limitation in two distinct ways: 1) if the family has an ownership interest in real property, that interest may cause the family’s net family assets to exceed \$100,000 (adjusted for inflation), in which case the family is out of compliance; and 2) if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property that is suitable for occupancy by the family as a residence, then the family is out of compliance. There are several exemptions to the real property restriction at § 5.618(a)(1)(ii), discussed in paragraph A.4.a, which identify when a real property ownership interest does not by itself render the family out of compliance with the asset limitation. However, those exemptions do not indicate that such real property is excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets in the definition under § 5.603, it may be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family will be out of compliance.

A.2 Compliance at Admission

At admission, ownership of net family assets that exceed \$100,000 (as adjusted) or ownership of disqualifying real property require denial of assistance. PHAs/MFH Owners do not have the discretion to not enforce or provide limited enforcement of the asset limitation at admission.

With respect to MFH programs only, MFH Owners must enforce the asset limitation at initial certification for families who lost their assistance because they failed to recertify

^{A1} Real Property as defined in 24 CFR § 5.100.

timely or began to pay market rent, remained in the unit, and then lost income, once again requiring assistance.

Note: Families residing in units converting to Section 8 PBRA or PBV through the Rental Assistance Demonstration (RAD) may not be rescreened upon conversion pursuant to the RAD statute; therefore, RAD families converting to PBRA or PBV are not subject to the asset limitation provision **at conversion**. Instead, families residing in units converting under the First or Second Component of RAD to PBRA (including units originally assisted under the Section 202/811 PRAC program) or PBV will be subject to the PHA/MFH Owner's discretionary asset limitation policies at their next annual or interim reexamination after conversion, whichever is sooner.

A.3 PHA/MFH Owner Discretion at Annual and Interim Reexamination

PHAs/MFH Owners have discretion with respect to the application of the asset limitation at annual and interim reexamination. PHAs/MFH Owners may adopt a written policy of total non-enforcement, enforcement, or limited enforcement, as described below. They may also adopt exception policies as described in A.3.d.

Regardless of the policy they adopt, PHAs/MFH Owners must comply with federal fair housing and civil rights requirements, including reasonable accommodation requirements. This obligation applies regardless of whether PHAs/MFH Owners establish enforcement, limited enforcement, or exception policies to the asset limitation at reexamination. This may mean, for example, that a PHA/MFH Owner would be required to allow someone to cure their noncompliance or provide more time to demonstrate they have cured their noncompliance before terminating assistance if there was a nexus between the person's disability and their need to cure or their need for additional time to demonstrate they have cured their noncompliance. A reasonable accommodation could require delaying the initiation of termination or eviction proceedings for more than six months.

A.3.a Total Non-Enforcement

At annual and interim reexamination, PHAs/MFH Owners may choose not to enforce the asset limitation, if they establish a written non-enforcement policy. PHAs/MFH Owners may establish a total non-enforcement policy for all families at reexaminations, which would mean that they will not initiate termination or eviction proceedings for a family for non-compliance with the asset limitation. Where the PHA/MFH Owner exercises this discretion to allow families who would otherwise fail to comply with the asset limitation to continue renting their units, the families will continue to receive assistance. If they adopt a total non-enforcement policy, PHAs/MFH Owners must apply the non-enforcement policy the same for all families within a program (e.g., if adopted in a PHA's Admissions and Continued Occupancy Policy, it must apply to all Public Housing families). Any non-enforcement policy must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan.

Note: PHAs/MFH Owners who adopt a total non-enforcement policy are still required to calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609. In the

course of calculating net family assets, PHAs/MFH Owners thus still need to determine whether the family owns real property that must be included in net family assets. However, if they adopt a total non-enforcement policy, they are not required to obtain and verify additional information about owned real property strictly to determine whether it qualifies for an exemption under § 5.618 (e.g., whether owned real property is suitable for occupancy). For example, if a PHA/MFH Owner finds a family owns real property, that real property would need to be included in the calculation of net family assets unless it is specifically excluded by § 5.603, but the PHA/MFH Owner would not need to inquire whether it was suitable for occupancy.

A.3.b Enforcement

PHAs/MFH Owners may choose to enforce the asset limitation at reexamination. PHAs/MFH Owners with an enforcement policy at reexamination must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. They may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months. See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation. See paragraph A.5 on how requirements to initiate termination or eviction proceedings vary by program.

Any enforcement policy, including the amount of time that a PHA/MFH Owner will delay the initiation of termination or eviction proceedings for noncompliant families, must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan.

A.3.c Limited Enforcement: Option to Cure

PHA/MFH Owners may alternatively adopt a written policy of limited enforcement, which would differ from total enforcement of the asset limitation at reexamination in only one regard: all families who are found to be out of compliance at reexamination would be provided the same opportunity to come back into compliance. Families would have up to but no longer than six months, depending on the limited enforcement policy that the PHA/MFH Owner adopts, to demonstrate that they have come back into compliance. If the family does demonstrate they have come back into compliance within that period, the PHA/MFH Owner would not initiate termination or eviction proceedings.

Limited enforcement policies cannot provide families more than six months to come back into compliance and do not extend the period of time the PHA/MFH Owner may delay initiation of termination or eviction proceedings; the PHA/MFH Owner may still only delay initiation of termination or eviction proceedings for the family for a period of not more than six months. (In the case of a reasonable accommodation, a family may be afforded more than six months to comply.) See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation.

If the PHA/MFH Owner has adopted a limited enforcement policy, that policy must address the timeframe for curing non-compliance (e.g., families will have six months to demonstrate they have cured non-compliance with the asset limitation). In establishing a limited enforcement policy, PHAs/MFH Owners may choose to allow an opportunity to cure non-compliance that is less than six months. Any limited enforcement policy, including the amount of time that a PHA/MFH Owner will delay the initiation of termination or eviction proceedings for families who do not demonstrate compliance, must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan.

What families must do to cure non-compliance depends on why they were identified as out of compliance. Families could cure non-compliance by removing prohibited assets — for example, by selling real property or bringing net family assets below \$100,000 (as adjusted for inflation). However, the value of assets disposed of for less than fair market value would still be counted in the family's net family asset total in the two years preceding the date of application for the program or reexamination. See [Attachment F](#) (paragraph F.4.a) for a discussion of what constitutes a disposition of assets for less than fair market value.

If the family is non-compliant with the asset limitation because of a present ownership interest in real property, but their net family assets do not exceed \$100,000 (adjusted for inflation), they can cure non-compliance by demonstrating that either they no longer own the prohibited asset or that it now qualifies for an exemption (e.g., because the family is now offering it for sale), so long as the family's net family assets do not exceed \$100,000 (adjusted for inflation) after such action is taken. (Note, however, that offering real property for sale does not thereby exclude the real property from the calculation of net family assets.)

A family with more than \$100,000 (as adjusted annually for inflation) in net family assets may bring their assets below the threshold in several ways. The family could purchase something that is not counted among net family assets, such as necessary personal property (e.g., a car used for everyday transportation). Alternatively, the family may cure non-compliance by moving assets such that they are no longer counted among net family assets, so long as doing so is not counted as disposing of assets for less than fair market value. In some circumstances, the family may transfer funds into a retirement plan recognized as such by the Internal Revenue Service (e.g., an individual retirement arrangement, employer retirement plan, or retirement plan for self-employed individuals), if the account is held by a member of the family. An asset moved to a retirement account held by a member of the family is not considered an asset disposed of for less than fair market value. Likewise, the family may be able to move funds into an irrevocable trust for the benefit of someone in the assisted family.

When PHAs/MFH Owners have a limited enforcement policy and the family demonstrates they have cured non-compliance, PHAs/MFH Owners must record the curing of a family's ineligibility in the family's file and permit families to remain in the program. The related updates to the family's income and assets would be processed at the next reexamination, which may be an interim if the family's circumstances meet the threshold for processing such a reexamination, or

it may be the next annual reexamination. See [Attachment I](#) (Interim Reexaminations) of this notice.

A.3.d Exception Policies

At annual and interim reexamination, PHAs/MFH Owners may also establish exceptions to the asset limitation (not at admission or initial certification where the family is being rescreened for assistance). If the PHA/MFH Owner has adopted a written exception policy for reexaminations, then families in the specified exception categories will receive either total non-enforcement or limited enforcement, depending on the exception policy the PHA/MFH Owner has adopted. Families in the specified exception categories would either (a) not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at a reexamination, or (b) they would be provided an opportunity, up to but no longer than six months, to come back into compliance, after which point the asset limitation would be enforced. An exception policy may be combined with a limited enforcement policy for all other families not in the exception categories, as described below.

PHAs/MFH Owners are permitted to include more than one exception as part of any exception policy. Exception policies may be based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided^{A2}. All exception policies must comply with civil rights and fair housing statutes and requirements, including but not limited to requirements identified in 24 CFR § 5.105(a).

Limited exception policies, which establish an opportunity to cure non-compliance, cannot provide families more than six months to cure these conditions. (In the case of a reasonable accommodation, a family may be afforded more than six months to comply.) If they have adopted such a policy, PHAs/MFH Owners must initiate termination or eviction proceedings for families who remain in non-compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. In establishing a limited exception policy, PHAs/MFH Owners may choose a period of delay that is less than six months.

PHAs/MFH Owners may choose to combine a limited enforcement policy (which applies to all families) with an exception policy for families in the specified exception categories. For example, they may adopt a limited enforcement policy that provides all families a window of six months to cure non-compliance with the asset limitation, and they may simultaneously adopt an exception policy that provides that the asset limitation will not be enforced at all at annual and interim reexaminations for families in the exception categories. PHAs/MFH Owners could alternatively adopt a limited enforcement policy for all families that provides a window of less than six months to cure non-compliance, alongside a

^{A2} Sec. 104(e)(5) of P.L.114-201 (HOTMA).

limited exception policy that allows families in the exception categories a longer period of time (up to but no longer than six months) to cure non-compliance.

Any exception policy must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan. The exception policy must describe whether excepted families are subject to total non-enforcement or limited enforcement.

Example A1: Asset Limitation Exception Policies

Sample Policy A: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA/MFH Owner will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to a limited enforcement policy and provided six months to cure noncompliance.

Sample Policy B: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA/MFH Owner will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to the enforcement policy.

Sample Policy C: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA/MFH Owner's policies. All other families will be subject to a limited enforcement policy and provided four months to cure noncompliance.

Sample Policy D: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA/MFH Owner's policies. All other families will be subject to the enforcement policy.

A.4 Real Property Determination

At admission and at reexamination, if the PHA/MFH Owner is enforcing the asset limitation, including limited enforcement, and a family declares that they have a present ownership interest in real property, then the PHA/MFH Owner must determine whether the property qualifies for an exemption as described in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation), whether the family lacks a legal right to reside in the real property as described in paragraph A.4.b (Legal Right to Reside in the Real Property), whether they lack the effective legal authority to sell the real property as described in paragraph A.4.c (Effective Legal Authority to Sell the Real Property), or whether the real property is unsuitable for occupancy as described in paragraph A.4.d (Suitability of Real Property for Occupancy). If the PHA/MFH Owner finds that any of these four things are true, then the family's present ownership interest in real property does not itself mean the family is out of compliance with the asset limitation. The type of third-party documentation that will be used to verify the disposition of a family's real property may vary by a family's circumstances and the locality in which the real property is located.

A.4.a Exemptions to the Real Property Restriction in the Asset Limitation

The real property restriction does not apply to the following:

- Any property for which the family is receiving assistance under 24 CFR § 982.620 (i.e., a manufactured home owned by a family who receives assistance to lease the space or lot in which it is located). Likewise, any property for which the family is receiving assistance under the Homeownership Option in 24 CFR Part 982. See 24 CFR § 5.618(a)(1)(ii)(A).
- Any property jointly owned by a family member and another individual who does not live with the family but who resides at the jointly owned property. See 24 CFR § 5.618(a)(1)(ii)(B).
- Any property owned by a family that includes a person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR Part 5 (Subpart L). For example, if the victim is a minor, the real property limitation does not apply to any property owned by the victim's parent or guardian. When a family requests an exemption from the real property limitation on this basis, the PHA/MFH Owner must accept self-certification and follow the confidentiality and documentation-request requirements established at 24 CFR § 5.2007. See 24 CFR § 5.618(a)(1)(ii)(C).
- Any property that the family is offering for sale. Documentary evidence of the sales process could include, for example, a contract with a real estate agent or a current real estate listing. See 24 CFR § 5.618(a)(1)(ii)(D).

A.4.b Legal Right to Reside in the Real Property

The real property restriction applies only when the family has the legal right to reside in the real property. Whether a family has the legal right to reside in a property may be dependent on state and local law. The family may own real property that legally they may not reside in. For example, the family may own a commercial property, such as a convenience store or other retail establishment, which cannot be occupied as a place of residence by the family. Families who claim they lack the legal right to reside in the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance.

A.4.c Effective Legal Authority to Sell the Real Property

The real property restriction applies only when the family has the effective legal authority to sell the real property, based on the laws of the state or locality in which the property is located. There may be multiple reasons why a family does not have such legal authority. For example, when families are contesting ownership of a property in court, or an individual is in divorce proceedings, they may be unable to sell the property until the completion of those proceedings. Someone who owns heirs' property may not have the authority to sell until others' claims to fractional ownership have been settled. Families who claim they lack the legal authority to sell the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance. For example, a divorce pleading or complaint may demonstrate that there are actual divorce proceedings occurring.

A.4.d Suitability of Real Property for Occupancy

A property will be considered suitable for occupancy unless the family demonstrates that the real property meets one of the following five conditions (24 CFR § 5.618(a)(2)):

- The property is not capable of meeting the disability-related needs of all members of the family (e.g., does not meet physical accessibility requirements, family has disability-related need for additional bedrooms, family needs proximity to accessible transportation). Documentary requirements to establish disability-related needs must comply with applicable fair housing and civil rights requirements.
- The property is not sufficient for the size of the family. A PHA/MFH Owner's occupancy standards may be used for such a determination.
- The property is geographically located so that it creates a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would place a hardship on the family, as determined by the PHA/MFH Owner. Distance or commute time to school/work are illustrative, but not exhaustive, examples of geographic hardships). Through written policies, PHAs/MFH Owners may set parameters on what constitutes such a hardship, but they must consider the specific circumstances of the family, including information provided by the family, in making a determination.
- The property is not safe to reside in because of its physical condition (e.g., the property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied). Unsafe property conditions could include external circumstances or environmental factors outside the control of the family. The property may be deemed not suitable for occupancy if the alterations that would be needed to make it safe to live in are cost prohibitive.
- The family does not have the legal right to reside in the property.

A.5 Special Considerations for Terminating Assistance or Evicting Families for Non-Compliance with the Asset Limitation

Even if PHAs/MFH Owners do not adopt a non-enforcement or limited enforcement policy and/or exception policy, they may delay for a period of up to six months the initiation of termination or eviction of assistance proceedings. They are not required to initiate termination or eviction of assistance proceedings immediately upon determining the family is out of compliance with the asset limitation, nor are they required to begin the proceedings during the six-month period in order to have a termination of assistance or eviction completed at the six-month mark. PHAs/MFH Owners are encouraged to set policies for the initiation of termination or eviction of assistance proceedings that provide families adequate opportunity to find new housing.

What it means to initiate termination or eviction of assistance proceedings due to non-compliance with the asset limitation will vary by program:

- In the Section 8 Project-Based Rental Assistance program, including the Section 202/8 program, participants who are not compliant with the asset limitation must either pay the contract rent for the unit or vacate the unit after termination of assistance.
- In the Housing Choice Voucher program, participants who are not compliant with the asset limitation are subject to termination of assistance, but there is no requirement that the unit owner initiate eviction because of non-compliance with the asset limitation.
- In the Public Housing program, participants who are not compliant with the asset limitation are subject to termination of assistance and eviction from the unit, if they fail to vacate the unit voluntarily. There is no general provision that allows such families to remain and pay an alternative rent.
- In the Section 8 Project-Based Voucher program, participants who are not compliant with the asset limitation are subject to termination of assistance. The PHA and owner may agree to remove the unit from the HAP contract, at which point the unit becomes an unassisted unit, and the owner may choose to allow the family to stay and pay the market rent. (The owner may charge the family a rent that is below-market rate, in which case it would be considered a landlord-assisted unit for rent reasonableness purposes.) When the family subsequently vacates the unit, the unit may be added back to the HAP contract. If the project is partially assisted, the PHA and owner may substitute a different unit for the unit removed due to the ineligibility of the tenant, consistent with the requirements for adding units to the HAP contract. Alternatively, if the owner refuses to agree to remove the unit from the HAP contract, the owner must evict the family, if they fail to vacate the unit voluntarily. In this case, the owner may not enter into a new lease with the now-eligible family for that PBV-assisted unit, and the PBV unit must be leased to an eligible family.
- In the Section 8 Moderate Rehabilitation program, participants who are not compliant with the asset limitation are no longer eligible for assistance. 24 CFR § 882.512 expressly allows that families who were eligible at admission but subsequently become ineligible may remain in HAP contract units. However, if the owner fails to have at least 90 percent of the assisted units leased or available for leasing by eligible families, the PHA may reduce the number of units covered by the HAP contract. The PHA will agree to an amendment of the HAP contract to provide for subsequent restoration of any reduction in units if the PHA determines that the restoration is justified by demand, the owner otherwise has a record of compliance with obligations under the HAP contract, and contract authority is available.

PHAs/MFH Owners must follow program procedures for terminating assistance or tenancy. For example, for Public Housing families, when the PHA initiates the eviction and termination process, the PHA must provide a lease termination notice of 30 days unless a state or local law requires a longer notice period, and the family must be provided an opportunity for a hearing under the PHA administrative grievance procedure.

A.6 Required Policy Updates to Administrative Plans, ACOPs, and Tenant Selection Plans

A.6.a Admission Policies

PHAs/MFH Owners must establish written screening criteria in their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to prohibit the admission of applicants who own net family assets that exceed \$100,000 (as adjusted for inflation) and/or real property that is suitable for occupancy. Policies should indicate the general parameters PHAs/MFH Owners will use when determining whether the location of real property constitutes a geographic hardship.

A.6.b Reexamination Policies

Whether a PHA/MFH Owner chooses to adopt a total non-enforcement, enforcement, limited enforcement, and/or exception policy for reexaminations, that policy and accompanying details must be set forth in the PHA's ACOP or Administrative Plan or in a MFH Owner's Tenant Selection Plan, as applicable.

PHAs/MFH Owners must also update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to indicate when they will initiate termination or eviction proceedings after participant families are determined to be out of compliance with the asset limitation, when the PHA/MFH Owner has established either an enforcement policy or policies to permit families to cure their noncompliance. PHAs/MFH Owners must initiate termination or eviction proceedings for families who remain out of compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. Policies should indicate the general parameters PHAs/MFH Owners will use when determining whether the location of real property constitutes a geographic hardship.

ATTACHMENT B: TOPIC: CALCULATING INCOME

Regulations

24 CFR §§ 5.609(c)(1); 5.609(c)(2); 5.609(c)(4); 5.657(f); 882.515; 882.515(f); 882.808; 882.808(i)(5); 891.105; 891.410(c); 891.410(g)(1); 891.410(g)(2); 891.610(c); 891.610(g)(1); 891.610(g)(2); 891.750(c); 960.257; 982.516; and 982.516(f)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See each subtopic.

Subtopics

B.1 New Admissions and Interim Reexaminations

Regulations: 24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

Summary: When calculating a household’s income, including asset income, at the time of admission to the program or during interim reexaminations, PHAs/MFH Owners must use anticipated income (current income) (i.e., the family’s estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

B.2 Annual Reexaminations

Regulations: 24 CFR §§ 5.609(c)(2); 882.808; 891.410(g)(1); and 891.610(g)(1) 960.257; and 982.516

Summary: The final rule revises the standards for income calculation during annual reexamination.

PHAs/MFH Owners have the option of using a “safe harbor” income verification from another federal means-tested program to verify gross annual income. See [Attachment J](#) (paragraph J.4) (Determination of Income Using Other Means Tested Public Assistance (i.e., “Safe Harbor”)) of this notice for an example of how to calculate annual income using the safe harbor method.

During annual reexaminations, except where the PHA/MFH Owner uses a streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b) (see [Attachment I](#) (paragraph I.8) (Streamlined Income Determination)), PHAs/MFH Owners must first determine the family’s income for the previous 12-month period and use this

amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the PHA/MFH Owner's policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered. Income from assets is always anticipated, irrespective of the income examination type.

A change in income, for example, may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. PHA/MFH Owners will look at the entirety of the family's unearned income and earned income from the prior year, in which earned income may have been one constant job or many different jobs that start and stop. Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law.^{B1} See Attachment B (paragraph B.3) of this notice for more information on the COLA. The three steps outlined below apply for both earned and unearned income.

Overview of Calculating Annual Income at Annual Reexamination

Step 1: Determine the annual income for the previous 12-month period as defined at 24 CFR § 5.609(a) and (b). If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance.

The PHA/MFH Owner reviews the following information to determine prior-year income:

- The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
- The income reported on the most recent reexamination HUD-50058/HUD-50059; and
- What the family certified to on the PHA/MFH Owner's current annual reexamination paperwork for prior-year income, if available.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If an interim reexamination was performed within the reexamination cycle and there are no additional changes, the PHA/MFH Owner must use the annual income from the interim reexamination to determine the family's rental assistance. The PHA/MFH Owner may use the verification obtained from the interim reexamination for this step.
- If the PHA/MFH Owner did not perform an interim reexamination or if the family reports that there have been changes since the last reexamination, move to Step 3.

^{B1}P.L. 92-336: <https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg406.pdf#page=16>.

Step 3: If there were changes in annual income not processed by the PHA/MFH Owner since the last reexamination, use current income.

- Family reports their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA/MFH Owner may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD–50058/HUD–50059. For example, the PHA/MFH Owner could use the following documentation :

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current level 4^{B2} documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA/MFH Owner), for example:
 - o Year-end statement
 - o Pay stub with year-to-date amount
 - o Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA/MFH Owner notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income. See [Attachment J](#) (paragraph J.5) (Verification Hierarchy) of this notice for information about verification.

Example B1: Calculating Annual Income at Annual Reexamination Using EIV

<u>Background:</u> Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA/MFH Owner since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 3.2 percent.	
<u>Last reexamination – 3/1/2023 Annual Reexamination</u>	
Ruby:	Georgia:
Wages: \$30,000	SSI: \$10,980 (\$915 monthly)
<u>The EIV report pulled on 12/15/2023</u>	
Ruby:	Georgia:
Wages Total: \$33,651	SSI Total: \$10,980
Quarter 3 of 2023: \$8,859 (City Public School)	2023 benefit \$915 monthly
Quarter 2 of 2023: \$8,616 (City Public School)	
Quarter 1 of 2023: \$8,823 (County Public School)	
Quarter 4 of 2022: \$7,353 (County Public School)	

^{B2} See Table J2.

<u>Income Reported on Reexamination Application</u>	
Ruby:	Georgia:
Wages at City Public School: \$32,000 (switched jobs but no permanent change to amount)	SSI benefits: \$10,980 (no changes in income)
<u>Calculating Ruby's wages:</u>	<u>Calculating Georgia's SSI benefit:</u>
Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651).	Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980).
Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).	Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).
Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA/MFH Owner will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA/MFH Owner must adjust the prior-year income (2023 SSI benefit) by the 3.2-percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: \$29.28 (\$915 x 0.032) New gross SSI benefit: \$11,331.36 (\$944.28 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy in Attachment J (paragraph J.5) (Verification Hierarchy) of this notice.	
<u>Summary of Annual Income (as reported on the HUD-50058/HUD-50059)</u>	
Ruby (Head of Household):	Georgia (Other Youth Under 18):
Other Wage: \$33,651	SSI: \$11,748
Myers Family Total Annual Income: \$45,399	

**Example B2: Calculating Annual Income at Annual Reexamination Using EIV:
Family Disagrees with EIV**

<u>Background:</u> Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
<u>5/1/2023 Annual Reexamination</u>

Wages: \$28,000
<u>Last Reexamination: 7/1/2023 Interim Reexamination</u>
Wages: \$7,500
<u>The EIV report pulled on 1/15/2024</u> Wages Total: \$18,271 Quarter 3 of 2023: \$2,500 (Viking Bakery) Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar) Quarter 2 of 2023: \$1,300 (Sasha's Sweets) Quarter 2 of 2023: \$584 (Larry's Concessions) Quarter 2 of 2023: \$2,401 (Viking Bakery) Quarter 1 of 2023: \$6,500 (Sasha's Sweets) Quarter 4 of 2022: \$600 (Sasha's Sweets) SS/SSI: No history of benefits.
<u>Income Reported on Reexamination Application</u> Wages: \$0 (permanent change; no longer receiving) Social Security: \$14,400 (\$1,200 monthly) Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.
<u>Calculating Wages and SS Benefit</u> Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271) Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500. Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all. Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058/HUD-50059)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

Example B3: Calculating Annual Income at Annual Reexamination

Background: Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Poole, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was **not** processed, because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA/MFH Owner did not establish a lower threshold (see [Attachment I](#), paragraph I.1). Samantha did not report any additional changes to the PHA/MFH Owner.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: \$28,000	Wages: \$8,250
VA disability pension: \$12,000	Other non-wage income: \$3,000 (Go Fund Me online fundraiser)
Child support: \$2,400	

The EIV report pulled on 9/16/2024

Samantha:	Fergus:
Wages Total: \$0 (no wage data reported since Q1 2023)	Wages Total: \$8,600
	Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)
	Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)
	Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)
	Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)
	Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA/MFH Owner's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported **only** wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA/MFH Owner for the 11/1/2024 annual reexamination.

Samantha:

Fergus:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

Wages: \$6,000

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Calculating Samantha's Net Business Income

Step 1: Determine prior annual *net business income* (i.e., \$28,000 on last HUD-50058/HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current **net business income**. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA/MFH Owner must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual **net business income** determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual **VA pension income** (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA/MFH Owner needs to adjust to reflect current **VA pension income**. Samantha supplies a VA award letter showing the COLA adjusted monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual **VA pension income** determined in Step 3 (\$12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual **child support income** (i.e., \$2,400 on the last HUD-50058/HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA/MFH Owner must adjust to reflect current **child support income**. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual **child support income** determined in Step 3 (\$1,200 in this example).

Calculating Fergus's Wages

Step 1: Determine prior annual income from **wages** in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA/MFH Owner must verify and adjust to reflect current annual income from **wages**. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA/MFH Owner projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA/MFH Owner must do the following: resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies. The PHA/MFH Owner determined that Fergus reported his net vs. gross annual income from **wages**, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA/MFH Owner verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on two current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from **wages** determined in Step 3 (\$9,360 in this example).

Calculating Fergus's Other Non-Wage Income

Step 1: Determine prior annual income from other **non-wage income** (i.e., \$3,000 on the last HUD-50058/HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058/HUD-50059. The PHA/MFH Owner must verify and adjust to reflect current **non-wage income**. The PHA/MFH Owner must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual **non-wage income** of \$0 determined in Step 3.

<u>Summary of Annual Income (as reported on the HUD–50058/HUD–50059)</u>	
Samantha (Head of Household):	Fergus (Co-head):
Own business: \$18,000	Wages: \$9,360
Pension: \$12,300	
Child support: \$1,200	
Poole Family Total Annual Income: \$40,860	

B.3 Applying the Current SSA COLA at Next Annual and Interim Reexamination

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Summary: Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs/MFH Owners are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example B4: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives \$500 a month (SS benefit). The PHA/MFH Owner is processing her annual reexam (in November 2023), which is effective 1/1/2024. The PHA/MFH Owner must determine annual SS income as follows:

- Current benefit amount: \$500
- COLA: \$16.00 (\$500 x 3.2 percent [or 0.032])
- New gross SS benefit effective 01/01/2024: \$516.00 (\$500 current benefit + \$16 COLA)
- Annual SS income effective 1/1/2024: \$6,192 (\$516 x 12)

B.4 De Minimis Errors

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

Summary: PHAs/MFH Owners will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA/MFH Owner’s determination of a family’s income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a “de minimis error” through rulemaking. PHAs/MFH Owners will not be issued a finding by

HUD or the Contract Administrator (MFH only) for de minimis errors in income calculation.

As PHAs/MFH Owners become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs/MFH Owners must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs/MFH Owners make de minimis errors in the income determination. Families will not be required to repay the PHA/MFH Owner in instances where the PHA/MFH Owner miscalculated income resulting in a family being undercharged for rent.

PHAs/MFH Owners must revise their Administrative Plans, ACOPs, and Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount they were overcharged as a result of the PHA/MFH Owner's de minimis error in income determination.

PHA/MFH Owner Discretion: None.

ATTACHMENT C: TOPIC: DEDUCTIONS AND EXPENSES

Regulations

24 CFR §§ 5.603; 5.611(a)(1); 5.611(a)(2); 5.611(a)(3); 5.611(a)(3)(ii); 5.611(b)(1); 5.611(b)(1)(i); 5.611(b)(1)(ii); 5.611(c)(1); 5.611(c)(1)(D); 5.611(c)(2); 5.611(d); 5.611(e); 5.611(e)(2); and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

PHAs/MFH Owners must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's ACOP or Administrative Plan.

Subtopics

C.1 Dependent Deduction

Regulation: 24 CFR § 5.611(a)(1)

Summary: Effective January 1, 2024, the dependent deduction amount is \$480. This amount will be adjusted annually (see [Attachment H](#)) and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner. Not later than September 1 annually, HUD will publish the CPI-W adjusted dependent deduction to the HUDUser Web site.^{C1} PHAs/MFH Owners must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

PHA/MFH Owner Discretion: None.

C.2 Elderly/Disabled Family Deduction

Regulation: 24 CFR § 5.611(a)(2)

Summary: Effective January 1, 2024, the elderly/disabled family deduction increases from \$400 to \$525 and applies to a family's next interim or annual reexamination, whichever is sooner, after the date on which the PHA/MFH Owner implements the new elderly/disabled family deduction. The amount of the deduction will be adjusted annually (see [Attachment H](#)). Not later than September 1 annually, HUD will publish the CPI-W adjusted elderly/disabled family deduction to the HUDUser Web site.

^{C1} https://www.huduser.gov/portal/pdrdatas_landing.html.

PHA/MFH Owner Discretion: None.

C.3 Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

C.3.a New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)

Summary: The final rule establishes that the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was 3 percent of the family's annual income.

C.3.b New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

Regulation: 24 CFR § 5.603

Summary: Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs/MFH Owners to specifically align their policies with IRS Publication 502^{C2} for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. PHAs/MFH Owners must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

PHA/MFH Owner Discretion: None.

C.3.c Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)(ii)

^{C2} Publication 502 explains the itemized deduction for medical and dental expenses used for tax purposes, including what expenses, and whose expenses, can and cannot be included in figuring the deduction.

Summary: Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA/MFH Owner Discretion: None.

C.4 Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulations: 24 CFR §§ 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)

Summary: As stated in C.3.a, the threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of 3 to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income. In order to claim **unreimbursed health and medical care expenses**, the family must have a head, co-head, or spouse that is elderly or a person with a disability. In order to claim **unreimbursed reasonable attendant care and auxiliary apparatus expenses**, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

To initiate, extend,^{C3} or conclude a hardship exemption only, PHAs/MFH Owners will process and submit a non-interim reexamination transaction as described in [Attachment I](#) (paragraph I.4) (Non-Interim Reexamination Transactions) of this notice.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Note: A family receiving phased-in relief may request to receive general hardship relief instead; **once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.**

^{C3} See paragraph C.6.e, below.

C.4.a Phased-In Relief

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after the date on which the PHA/MFH Owner implements the phased-in relief. Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA/MFH Owner will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

The following table demonstrates when the phased-in relief will begin and increase every 12 months during the 24-month phase-in period.

Table C1: Phased-in Relief Timing

Phased-in Relief Timing	In Excess Threshold Percentage for Families Receiving the Health and Medical Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction as of January 1, 2024	Reexamination Type
First annual reexamination or interim reexamination, whichever occurs first on or after the date on which the PHA/MFH Owner implements the phased-in relief.	5 percent	Annual or Interim Reexamination
Twelve months after the 5-percent phase-in began	7.5 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim transaction.
Twelve months after the 7.5-percent phase-in began	10 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim reexamination transaction.

Example C1: Phased-In Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Ms. Bell's annual reexamination is due on June 1, 2024. Her last annual reexamination was effective June 1, 2023, and she received a deduction for unreimbursed health and medical expenses. She did not have any interim reexaminations after her annual reexamination was completed. Ms. Bell's unreimbursed health and medical expenses were 8 percent of her annual income. For her annual reexamination effective June 1, 2024, the PHA determines that Ms. Bell's annual income is \$10,000 and her unreimbursed health and medical expenses are \$800 (8 percent of her annual income).

Although Ms. Bell's unreimbursed health and medical care expenses are not in excess of the new 10-percent threshold to receive the deduction, since she was receiving a deduction for unreimbursed health and medical expenses on January 1, 2024, Ms. Bell is automatically eligible for the deduction pursuant to the phased-in hardship exemption. The PHA/MFH Owner will apply the phased-in relief threshold to deduct the expenses that exceed 5 percent of her annual income which is \$300 (\$800 - \$500) for this reexamination.

Since her expenses are more than 7.5 percent of her annual income, Ms. Bell will receive the benefit of the unreimbursed health and medical expense deduction until her next annual reexamination on June 1, 2025, or interim reexamination (whichever occurs first), when the threshold will be increased to 7.5 percent. Assuming her medical expenses are still \$800, she will be able to deduct \$50 (\$800 - \$750).

PHAs/MFH Owners **must** track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move with continued assistance in the HCV program or port to

another PHA. The phase-in must also continue for families who move to another Public Housing unit at the same PHA, or who transfer internally to another unit within the same MFH property. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024.

The table below describes the potential phased-in relief outcomes based on a family's status in PIH and MFH programs:

Table C2: Phased-in Relief Outcomes According to Family's Status in Program for Multifamily Housing Program

Family's Status in Program	Is Family Receiving Phased-in Relief?	Outcome of Phased-in Relief	Required Documentation
Family's assistance is terminated in any program.	Yes	Phased-in relief ends upon termination. When readmitted, family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA/MFH Owner.	N/A. No documentation of phased-in relief is needed.
Public Housing: Family transfers PH units within the same PHA. Housing Choice Voucher: Family moves with continued assistance in the HCV program with the same PHA or ports to a new PHA. MFH: Family transfers units within the same MFH property and are not treated as a new admission.	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	The PHA or MFH Owner will use the existing phase-in documentation to determine the remaining calendar months of the percentage phase-in.
Family is treated as a new admission under a different property/program (e.g., family moves from one MFH property to another MFH property, the family moves from Public Housing to the HCV program, etc.).	Yes	Unless the PHA/MFH has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by PHA/MFH Owner.	If the PHA/MFH Owner elects to continue the phased-in hardship relief, then the following documentation is required: Copy of forms HUD-50058 or 50059 from the family showing phased-in relief. If the forms are unavailable, then the PHA/MFH Owner may

			obtain self-certification from family declaring effective date of 5-percent or 7.5-percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.
Unit in which family resides converts to PBV or PBRA funding under the Rental Assistance Demonstration.	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	Copy of forms HUD-50058 or 50059 from the family showing phased-in relief. If the forms are unavailable, then the PHA/MFH Owner may obtain self-certification from family declaring effective date of 5-percent or 7.5-percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a policy to continue the phased-in hardship relief for families who were eligible for relief as of January 1, 2024, and who are treated as new admissions under a different program.

C.4.b General Relief

This section describes when a family is eligible for general relief related to the health and medical care expense and reasonable attendant care and auxiliary apparatus expense deduction.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA/MFH Owner determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the

circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, PHAs/MFH Owners may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

Example C2: General Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Mr. Beck's annual reexamination is due on August 1, 2024. In his last reexamination, he did not have any unreimbursed health and medical expenses and/or auxiliary and attendant care expenses. However, Mr. Beck has since been in a car accident, and he has increased eligible health and medical expenses equal to 6 percent of his annual income. On February 15, 2024, Mr. Beck asks the PHA/MFH Owner for a hardship exemption to allow him to receive a health and medical care expense deduction, which will help him cover his rent.

The PHA/MFH Owner determines that the family is eligible for general relief and an interim reexamination would not have otherwise been triggered. The PHA/MFH Owners processes a non-interim change that applies a health and medical expense deduction for the eligible expenses that exceed 5 percent of annual income for 90 days. The PHA/MFH Owner may extend the relief for one or more additional 90-day periods while Mr. Beck's hardship condition continues and may extend the exemption beyond 90 days if a policy for extending hardship relief is included in the written policy for the PHA/MFH Owner.

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances as determined by the PHA/MFH Owner.

PHAs/MFH Owners must not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA/MFH Owner's discretionary policies on conducting interim reexaminations for adjusted income decreases that are less than ten percent. Instead, the PHA/MFH Owner will process and submit a non-interim reexamination transaction as described in Section 16.4 (Non-Interim Reexamination Transactions) of this notice.

C.5 Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction

Regulation: 24 CFR §§ 5.603 Child-Care Expenses and 5.611(d)

See also [Attachment I](#) (paragraph I.4) (Non-Interim Reexamination Transactions).

Summary: Under 24 CFR § 5.611(d), any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as a stipend from the child welfare agency), under 13 years of age, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational)); and
- The expense is not reimbursed by an agency or individual outside the household.

The amount deducted must not exceed the amount of employment income that is included in annual income.

A family whose eligibility for the child-care expense deduction **is ending** may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.

When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, the PHA/MFH Owner must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to the PHA's/MFH Owner's satisfaction that the family is unable to pay their rent (see [Attachment C](#) (paragraph C.6.a) (Policy for Determination of the Family's Inability to Pay Rent)) because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, or furthering their education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. The PHA/MFH Owner, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

To initiate, extend or conclude a hardship exemption, PHAs/MFH Owners will submit a non-interim transaction code on form HUD-50058/HUD-50059, unless there is an accompanying event that triggers an interim reexamination.

Example C3: Hardship Exemption to Continue Child-Care Expense Deduction

Ms. Branch had been paying \$250 per week for her child, Violet, to attend child care, while she was employed at a local coffee shop. Ms. Branch became unemployed when the coffee shop permanently closed. Ms. Branch has plans to enroll in college in two months. Although Ms. Branch has the availability to watch Violet, the child-care center has a long waiting list, and if Ms. Branch pulls Violet out temporarily, she would likely be without reliable child care when she starts college. Continuing to pay child-care expenses while not receiving earned income has made the family unable to pay their rent portion.

The PHA/MFH Owner determined that Ms. Branch met the hardship exemption criteria, as established in the MFH Owner's written policies, and is unable to pay rent. The PHA/MFH Owner will allow Ms. Branch to

continue to receive the child-care expense deduction for 60 days as Ms. Branch is anticipated to enroll in college in the next two months.

PHA/MFH Owner Discretion: PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. PHAs/MFH Owners may extend hardship exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

C.6 Hardship Policy Requirements

C.6.a Policy for Determination of the Family's Inability to Pay Rent

Regulation: 24 CFR § 5.611(e)

Summary: PHAs/MFH Owners must establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent, triggering eligibility for a hardship exemption).

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption. PHAs/MFH Owners must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child-care expenses or health and medical expenses) is more than 45 percent (for example) of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. PHA/MFH Owners may use different percentage thresholds or methods for determining a family's inability to pay rent; the examples provided in this paragraph are for consideration purposes.

C.6.b Family Notification of Hardship Exemption

Regulation: 24 CFR § 5.611(e)(2)

Summary: PHAs/MFH Owners must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the PHA/MFH Owner if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHAs/MFH Owners must provide families 30 days' notice of any increase in rent.

PHAs/MFH Owners are encouraged to communicate the availability of hardship exemptions and how to request a hardship to all applicants and families prior to beginning to comply with HOTMA.

PHA/MFH Owner Discretion: None.

C.6.c Family Notification of Hardship Exemption Denial

PHAs/MFH Owners must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

C.6.d Family Notification of Hardship Exemption Termination

PHAs/MFH Owners must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

Example C4: Termination of Hardship Exemption

The Olivera family is currently receiving a hardship exemption for child-care expenses. The family received an interim reexamination to decrease their earned income when an adult family member went on unpaid medical leave. The family is unable to pay rent during this time but still needs child care while the adult family member is receiving physical therapy. The family subsequently reports to the PHA/MFH Owner that the adult family member will resume employment in 3 weeks on March 23, at which point the family will no longer need the child-care hardship exemption. When the hardship exemption ends, the PHA/MFH Owner will process an interim reexamination to add the family's earned income and restart the non-hardship child-care expense deduction. The PHA/MFH Owner has a policy to consider earned income increases following an interim reexamination due to a decrease in income (see [Attachment I](#) (paragraph I.2)).

The PHA/MFH Owner must notify the family in writing that the hardship exemption will be terminated effective March 23 and provide the family with 30 days' notice of any rent increase. The family's rent increase will be effective on May 1.

C.6.e Extension of Hardship Exemption for Additional 90-Day Period(s)

PHAs/MFH Owners may at their discretion extend hardship exemptions for additional 90-day periods if the hardship continues pursuant to the PHA/MFH Owner's hardship policies. This provision applies to families receiving hardship exemptions for the child-care expenses deduction and general hardship relief for health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

PHA/MFH Owners may extend the hardship relief for as many 90-day periods as the hardship continues to affect the family. Policies for extending hardship relief for additional 90-day periods must be established in PHAs' Administrative Plans or ACOPs, and in MFH Owners' Tenant Selection Plans.

PHAs/MFH Owners must obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available. PHAs/MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.

C.7 Additional (Permissive) Deductions

Regulation: 24 CFR § 5.611(b)(1)

Summary: A PHA may, but is not required to, establish an additional deduction or deductions from a family's annual income. These deductions are also known as "permissive deductions." Note that the public housing Operating Fund formula is not

revised to account for any decrease in PHA revenue attributable to implementing permissive deductions. Likewise, the subsidy costs attributable to implementing permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or moderate rehabilitation funding. PHAs that adopt permissive deductions are required to incorporate these policies as part of the Administrative Plan or ACOP, as applicable.

MFH Owners are not permitted to adopt permissive deductions.

PHAs can respond to community needs by establishing a wide range of permissive deductions, including permissive deductions to provide incentives for families to work. Program regulations do not specify what types of permissive deductions are allowable. PHAs operating the Public Housing program have previously adopted permissive deductions that incentivize or encourage self-sufficiency and economic mobility.

As examples, a PHA may adopt an income deduction based on the following:

- The amount earned by certain members of the family (e.g., all income earned by elderly family members, etc.);
- The amount earned by families having certain characteristics (e.g., all income earned by family members employed by nonprofit organizations, etc.);
- the amount received by families or members from guaranteed income programs offered by select states and local governments;
- The amount earned by families or members during a certain time period or from certain sources (e.g., all income earned by full-time dependent students between June-August, all income earned by family members employed by nonprofit organizations, etc.)
- The amount paid from the family's annual income, and not another source such as Medicaid or a child welfare agency, for unreimbursed health or medical expenses of a foster child or foster adult.

PHAs are still subject to federal nondiscrimination requirements, including the obligation to provide reasonable accommodations that may be necessary for households with family members with disabilities.

C.7.a. Additional (Permissive) Deductions: Public Housing Only

Regulation: 24 CFR § 5.611(b)(1)(i)

Summary: PHAs may continue to adopt additional deductions from annual income in the Public Housing program. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility. **A PHA that adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions**, so the financial impact of implementing permissive deductions must be carefully evaluated. PHAs may adopt permissive deductions for Public Housing only if they have established a written policy for such deductions.

PHAs must put the total dollar amounts of any permissible deductions in column 8d and line 8e of the form HUD-50058.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the Public Housing program must create written policies in the PHA's ACOP. MFH Owners are not permitted to adopt permissive deductions.

C.7.b Additional (Permissive) Deductions: HCV and Moderate Rehabilitation Only

Regulation: 24 CFR § 5.611(b)(1)(ii)

Summary: When deciding whether to adopt a permissive deduction for the HCV program, the PHA will need to review its Housing Assistance Payments (HAP) funds utilization and projected leasing closely to ensure that enough HAP is available to support the number of families currently or planned to be leased. The costs attributable to permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or Moderate Rehabilitation/SRO funding. A PHA must have sufficient funding to cover the increased HAP cost of the deductions.

For the HCV program, PHAs will be required to report any HAP spent on permissive deductions into VMS monthly. Additional guidance for reporting HAP spent on permissive deductions in VMS will be provided in the VMS Manual.

For Moderate Rehabilitation programs, PHAs will be required to report the additional subsidy cost as part of the Moderate Rehabilitation Year End Settlement they are currently required to submit to HUD.

Since permissive deductions will be excluded from the renewal calculation, PHAs may use outside funding to cover the cost. For example, the PHA may receive non-federal funding to cover the cost of a particular permissive deduction. This could also apply for research studies where the research director asks the PHA to exclude stipends or basic/guaranteed income amounts received during the study period, and the research study provides funding to the PHA to cover the cost.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the HCV or Moderate Rehabilitation/SRO programs must create written policies in the PHA's HCV Administrative Plans.

MFH Owners are not permitted to adopt permissive deductions.

ATTACHMENT D: TOPIC: APPLICABLE FAIR HOUSING AND CIVIL RIGHTS REQUIREMENTS

Regulations

24 CFR §§ 5.105(a), 8.6, 982.53; 28 CFR §§ 35.160 and 36.303

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

While HOTMA did not revise existing Fair Housing or Civil Rights requirements, PHAs/MFH Owners are reminded to follow all applicable nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a) and 24 CFR § 982.53, including but not limited to:

- the Fair Housing Act;
- Section 504 of the Rehabilitation Act of 1973;
- Title VI of the Civil Rights Act of 1964;
- the Age Discrimination Act;
- HUD's Equal Access Rule; and
- Title II of the Americans with Disabilities Act of 1990.

These requirements prohibit discrimination on the basis of race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, disability, age, and marital status. PHAs/MFH Owners must also comply with Title III of the Americans with Disabilities Act of 1990, as applicable (see 28 CFR part 36).

When an assisted household includes a person with disabilities, a reasonable accommodation may be necessary. A reasonable accommodation is a change, exception, or adjustment to rules, policies, practices, or services that may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common areas, or to participate in or access programs and activities. Under Section 504, reasonable accommodations may also include a structural change to a unit, or to a public or common use area. In addition, the PHAs/MFH Owners must provide effective communication to persons with disabilities, including those with vision, hearing, and other communication-related disabilities, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible Web sites; and other accessible electronic communications). See 24 CFR § 8.6.

PHAs/MFH Owners must also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP). LEP guidance and LEP information is available here: <https://www.federalregister.gov/documents/2007/01/22/07-217/final-guidance-to-federal-financial-assistance-recipients-regarding-title-vi-prohibition-against>.

In addition, PHAs/MFH Owners must comply with the Violence Against Women Act (VAWA), HUD's implementing VAWA regulation at 24 CFR part 5 – subpart L, and applicable program regulations.

ATTACHMENT E: TOPIC: HOUSEHOLD COMPOSITION

Regulations

24 CFR §§ 5.403; 5.603; 5.609; 891.105; and 891.520

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance), Section 202/8	Section 202/162 PAC, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes ^{E1}	Yes

Summary

See subtopics.

Subtopics

E.1 Definition of Family

Regulation: 24 CFR § 5.403

Summary: The final rule revises the definition of family to also include a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
- Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
- Is homeless or is at risk of becoming homeless at age 16 or older.

The definition of “family” in the final rule incorporates revisions made to the 1937 Act by the Fostering Stable Housing Opportunities provisions of the Consolidated Appropriations Act, 2021, which expands the definition of “single persons.” Due to the modification of the statute prior to this final rule, HUD is making a conforming change to 24 CFR § 5.403 to align with the new statutory language.

PHA/MFH Owner Discretion: None.

E.2 New Definitions of Foster Adult and Foster Child

Regulation: 24 CFR § 5.603

Summary: The final rule establishes definitions for “foster adult” and “foster child.” A foster adult is defined as a member of the household who is 18 years or older and meets

^{E1} SPRACs have a program-specific definition of Family found in paragraph 2.3 (Families to be Housed) of the SPRAC II (form HUD-93742a).

the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.

In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A foster child is defined as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster adults/children are not considered **family members** and must not be included in calculations of income for eligibility and rent determination purposes. However, foster adults/children are considered **household members** and must be included when determining unit size or subsidy standards based on established policies.

The definition of “dependent” under § 5.603 was revised to explicitly **exclude** foster children and foster adults. PHAs/MFH Owners may not provide a dependent deduction under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses used in the determination of annual income. Reasonable unreimbursed child-care expenses (as defined in § 5.603) for foster children under 13 years of age may be deducted from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family’s annual income (and not another source, such as a stipend from a child welfare agency). PHAs may use their discretion to establish permissive deductions pursuant to 24 CFR 5.611(b) related to foster children and foster adults – for example, to allow unreimbursed health and medical expenses (defined in § 5.603) of an elderly or disabled family related to their foster child or foster adult to be deducted from annual income, so long as the expenses are paid from the elderly or disabled family’s annual income (and not another source, such as a stipend from a child welfare agency). MFH Owners are not permitted to adopt permissive deductions (see section C.7 for information on permissive deductions).

Families may be eligible to continue to receive the child-care expense deduction, pursuant to a hardship exemption, when the unreimbursed child-care expense is for the care of a foster child under the age of 13, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family’s annual income (and not another source, such as a stipend from a child welfare agency). See [Attachment C](#) (paragraph C.5) (Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction) of this notice.

When a member of an assisted family is temporarily placed in foster care (as confirmed by the state child welfare agency), the member is still counted as a family member in the unit from which they were removed. This means that a foster child or foster adult could be considered an assisted family member in one household while also being a foster child

or adult in another household and receiving consideration in both families' voucher size and/or unit size.

PHA/MFH Owner Discretion: None.

E.3 Alignment of Family Member Definition Across Programs

Regulations: 24 CFR §§ 5.403; 5.603; and 5.609

Summary: Since approximately 2008, MFH programs have treated foster children and foster adults as family members. Effective with the final rule, foster children and foster adults will be treated as household members in MFH programs. This policy alignment is not a direct result of HOTMA but serves rather to conform MFH programs with the existing treatment of foster children/adults across other HUD programs.

HUD reminds PHAs and MFH Owners that the income and net family assets of household members are excluded when determining initial eligibility or eligibility for continued assistance; however, household members are considered for purposes of unit size and subsidy standards. For example, a live-in aide must be considered for bedroom size requirements for a unit, but their income and expenses would not be included for the purposes of income eligibility and assistance levels. Household members do not qualify for expenses or deductions, except that reasonable unreimbursed child-care expenses may be deducted for foster children under the age of 13 if it enables a member of the family to work, look for work, or go to school, and only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency).

PHA/MFH Owner Discretion: None.

ATTACHMENT F: TOPIC: INCOME

Regulations

24 CFR §§ 5.100; 5.603; 5.603(b); 5.603(b)(3) – (b)(4); 5.609; 5.609(a)(1) – (a)(2); 5.618; 882.515(a); 882.808(i)(1); 891.105; 891.655; 960.259(c)(2); and 982.516(a)(3)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See subtopics.

Subtopics

F.1 Annual Income

Regulations: 24 CFR §§ 5.609(a)(1)–(a)(2); and 891.105

Summary: Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609. See [Attachment G](#) (Income Exclusions). All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker (see paragraphs F.2.a, F.2.b, and F.2.c, below) are included in annual income regardless of age, unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

Note: Annual income includes “all amounts received,” not the amount that a family **may be** legally entitled to receive but **did not**. For example, a family’s child-support or alimony income must be based on payments received, not the amounts the family is entitled to receive based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family. However, when a family member’s wages or benefits are garnished, levied, or withheld^{F1} to pay restitution, child support, tax debt, student loan debt, or other applicable debts, PHAs/MFH Owners must use the gross amount of the income, prior to the reduction, to determine a family’s annual income.

^{F1} See: <https://www.dol.gov/general/topic/wages/garnishments> and <https://faq.ssa.gov/en-us/Topic/article/KA-01873>.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income only when net family assets exceed \$50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated for all assets (see F.6.b, below, for a discussion of scenarios where income can be calculated for some but not all assets). PHAs/MFH Owners will not impute income from assets if the total value of net family assets is equal to or less than \$50,000 (as adjusted by inflation). See paragraph F.4.a (Determining Net Family Assets), below, for the definition of net family assets and paragraph F.6 (Actual and Imputed Income from Assets).

PHA/MFH Owner Discretion: None.

F.2 Earned Income

Regulation: 24 CFR § 5.100

Summary: Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

PHA/MFH Owner Discretion: None.

F.2.a Definition of Day Laborer

Regulation: 24 CFR § 5.603(b)

Summary: A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24) (see [Attachment G](#) (paragraph G.1) (Nonrecurring Income) of this notice) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (e.g., earnings of full-time students in excess of the dependent deduction (24 CFR §§ 5.609(b)(3), (b)(14), etc.)).

PHA/MFH Owner Discretion: None.

F.2.b Definition of Independent Contractor

Regulation: 24 CFR § 5.603(b)

Summary: An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax.

In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and

transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered “gig workers,” such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.

Income earned as an independent contractor is not considered nonrecurring income (see [Attachment G](#) (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.2.c Definition of Seasonal Worker

Regulation: 24 CFR § 5.603(b)

Summary: A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry.

Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver.

Income earned as a seasonal worker is not considered nonrecurring income (see [Attachment G](#) (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., § 5.609(b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.3 Definition of Unearned Income

Regulation: 24 CFR § 5.100

Summary: Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

PHA/MFH Owner Discretion: None.

F.4 Assets

Asset requirements in 24 CFR §§ 5.603 and 5.609 apply to HCV (including Project-Based Vouchers and all special purpose vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO, and MFH programs.

F.4.a Determining Net Family Assets

Regulations: 24 CFR §§ 5.100 and 5.603

Summary: Net family assets are defined as the net cash value of **all assets owned by the family**, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see [Attachment F](#) (paragraph F.4.b) (Exclusions from Net Family Assets) of this notice).

Assets with negative equity. The cash value of real property^{F2} or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Assets disposed of for less than fair market value. In determining the value of net family assets, PHAs/MFH Owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust,^{F3} but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

For example, if a family gave away a home with a net value of \$80,000, the value of the home must be included in the calculation of net family assets for two years following the transfer of property. If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in net family assets for two years following the transfer of property. For example, if a family sold a property with a fair market value of \$80,000 to a friend for \$20,000, then the difference in value (\$60,000) minus the cost to dispose of the property (\$10,000), which is in this example totals \$50,000, would be counted in net family assets for two years from the date of the property's transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

Asset owned by business entity. If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

Jointly owned assets. For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs/MFH Owners must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see F.4.b of this notice), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of

^{F2} Real property, as used in 24 CFR Part 5, has the same meaning as that provided under the state law in which the real property is located.

^{F3} A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family.

any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded (see [Attachment G](#)), or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

PHA/MFH Owner Discretion: None.

F.4.b Exclusions from Net Family Assets

Regulations: 24 CFR § 5.603(b)(3)–(b)(4)

Required exclusions from net family assets include the following:

- The value of necessary items of personal property. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals.
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and

distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.

- The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
- Interests in Indian trust land.
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.
- Family Self-Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
- The full amount of assets held in an irrevocable trust. (See paragraph F.4.d (Trusts) of this notice.)
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household. (See paragraph F.4.d (Trusts) of this notice)

PHA/MFH Owner Discretion: PHAs/MFH Owners may need to revise application forms, interview guides and individual verification forms to ensure that they are gathering adequate information to make appropriate asset exclusion determinations.

F.4.c Necessary and Non-Necessary Personal Property

Regulation: 24 CFR § 5.603

Summary: Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts. For example, a family could have non-necessary personal property with a combined value that does not exceed \$50,000 but also own real property such as a parcel of land. Even though the non-necessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value unless the real property meets a different exclusion under 24 CFR § 5.603.

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on PHAs/MFH Owners to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property. **This is not an exhaustive list.**

Table F1: Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care-related supplies • Musical instruments used by the family	• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

• Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	
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Example F1: Necessary and Non-Necessary Personal Property

The Cross family owns three items of personal property. The family has a checking account valued at \$5,000, a \$15,000 recreational boat, and Ms. Cross's \$3,000 engagement ring.

The checking account and recreational boat are both considered non-necessary personal property. They are worth a combined \$20,000. The engagement ring is considered necessary personal property, because it is jewelry used in a religious/cultural celebration or ceremony. Since the total value of non-necessary personal property is less than \$50,000, the family's non-necessary personal property will not be considered when calculating the Cross family's net family assets.

<u>Cross Family’s Personal Property</u>			
Item	Estimated Value	Type	Amount to be considered as non-necessary personal property
Checking account	\$5,000	Non-necessary Personal Property	\$5,000
Ring (engagement ring)	\$3,000	Necessary Personal Property	\$0
Recreational boat	\$15,000	Non-necessary Personal Property	\$15,000
Total Non-necessary Personal Property:			\$20,000
<u>Calculation of Cross Family’s Total Net Assets</u>			
Asset		Total to be Considered in Net Family Assets	
Non-necessary Personal Property		\$0	
Real Property		\$0	
Total:		\$0	
The Cross family’s total net family assets are \$0.			

PHA/MFH Owner Discretion: None.

F.4.d Trusts

Regulations: 24 CFR §§ 5.603 and 5.609

Summary: Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family;
- Whether distributions are made from the trust's principal; and

- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

F.4.d.i Trusts as Net Family Assets

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) is included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets. This also means that PHAs/MFH Owners will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

F.4.d.ii Actual Income from a Trust

If the PHA/MFH Owner determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income.

Where an irrevocable trust is excluded from net family assets, the PHA/MFH Owner must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

F.4.d.iii Trust Distributions and Annual Income

- **Revocable trust considered part of net family assets:** If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.
- **Revocable or irrevocable trust not considered part of net family assets:** If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:
 - All distributions from the trust's principal are excluded from income.
 - Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's

principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Table F2 below is a tool to assist PHAs/MFH Owners in determining whether a trust should be considered a net family asset and/or whether a trust's earned interest or distributions are considered income to the family.

Table F2: Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

PHAs/MFH Owners must be careful to distinguish between distributions of principal and distributions of earnings on a trust's principal when verifying family income from irrevocable trusts and revocable trusts where the grantor is not part of the assisted family or household, so as not to unintentionally include distributions of principal that are not considered income.

Note: The policy implemented under HOTMA is a change from the previous policies of both PIH and MFH. Previously, PIH considered all distributions of principal or income earned on the principal as income unless the distribution qualified as an income exclusion. In determining whether a distribution from a trust should be counted as income to the beneficiary, MFH considered how the

trust was funded, whether the distribution was from trust income or principal, and whether any distribution from trust income met an existing income exclusion. The policy under HOTMA aligns the policies of MFH and PIH and clarifies that the term “income” means “trust income” and not **any** distribution from the trust to the beneficiary.

PHA/MFH Owner Discretion: None.

F.4.e Federal Tax Refunds or Refundable Tax Credits

Regulation: 24 CFR § 5.603

Summary: All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family’s net family assets for a period of 12 months after receipt by the family.

Taxpayers have several options for receiving their tax refunds: via paper check or direct deposit into a checking or savings account; via TreasuryDirect to buy savings bonds; via direct deposit into a Traditional, Roth, or Simplified Employee Pension Plan-IRA; or via purchase of savings bonds, a Health Savings Account, an Archer Medical Savings Account, or a Coverdell Education Savings Account. Refundable tax credits, such as the Earned Income Tax Credit (EITC), are determined as part of an overall tax return submission to the Internal Revenue Service (IRS). Taxpayers receive one federal tax refund reflecting the taxpayer’s tax liability, if negative, including any applicable refundable tax credits.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered \$0.

Note: Only the amount that the family receives is excluded from net family assets. For example, if a family anticipates a \$500 federal tax refund but only receives \$250, then only \$250 will be excluded from the net family assets because that is the amount that the family received.

PHAs/MFH Owners are not required to verify the amount of the family’s federal tax refund or refundable tax credit(s) if the family’s net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA/MFH owner does not accept self-certification of assets. PHAs/MFH Owner must verify the amount of the family’s federal tax refund or refundable tax credits if the family’s net assets are greater than \$50,000.

The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family’s annual income unless the income is specifically excluded under 24 CFR § 5.609(b).

Example F2: Federal Tax Refund Excluded from Net Family Assets

The Rodriguez family received a \$4,500 federal tax refund on 3/1/2024 and deposited the refund into their checking account. At their next annual reexamination with an effective date of 8/1/2024, the PHA/MFH Owner asks the family about any assets they own, the anticipated income from the assets, and if they received a federal tax refund or refundable tax credits in the past 12 months and where they deposited the refund/refundable tax credits or if they purchased savings bonds with the refund.

The Rodriguez family explain that they received a \$4,500 refund and that they deposited the refund into their checking account, which has a balance of \$10,000. The Rodriguez family reports that they have actual income of \$100 from the checking account this year. The family owns no other assets. Therefore, the family's total calculation of net family assets is \$10,000. In determining the total value of net family assets, the PHA/MFH Owner subtracts \$4,500 from the total of \$10,000 of net family assets, for a total countable asset of \$5,500. The full value of actual income is included as income, because actual income is always included even on excluded assets.

F.4.f Net Family Assets Examples

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets. These concepts are illustrated in the three examples below.

Example F3: Retirement Accounts

Background: The value of any account under a retirement plan recognized by the Internal Revenue Service, including IRAs, employer retirement plans, and retirement plans for self-employed individuals, is not considered in determining net family assets. Any income earned on the funds while stored in such a retirement account is not considered actual income from assets. However, any distribution of periodic payments from the retirement account is considered income at the time it is received by the family (§ 5.609(b)(26)).

Scenario

Prior quarter ending balance of 401(k) account: \$157,500

Prior quarter yield: 5 percent (\$7,500)

Distributions made to family: \$12,000 in prior year, same amount is anticipated to be received this year.

Result: In this example, the family's income reexamination will not include the 401(k), because the value of the 401(k) and the earnings will be considered neither net family assets nor income to the family; however, the family's income reexamination will include the \$12,000 in distributions (unearned income) which has been paid from the retirement account in increments of \$1,000 monthly to the family.

Example F4: Civil Rights Settlements

Background: A civil rights settlement, regardless of how the settlement is paid (lump sum or several distributions), is excluded from annual income; however, the amounts would be considered part of net family assets, if held in a savings account, revocable trust, or in some other asset that is not excluded from the definition of net family assets.

Scenario

Jessica receives a civil rights settlement in the amount of \$20,000, because she was not provided a reasonable accommodation. Jessica deposits the \$20,000 into her savings account, which already contains \$5,000, and earns 0.5 percent interest annually.

Total civil rights settlement received: \$20,000 (excluded from income under § 5.609(b)(25))

Value of savings account: \$25,000 (which includes the \$20,000 settlement)

Actual income earned from savings account: $\$25,000 \times 0.005 = \125 included in annual income

Result: In this example, the family's income reexamination will not include the amount received from the civil rights settlement, because the funds are not considered income under § 5.609(b)(25). However, the value of the savings account where the settlement was deposited will be used in the calculation of net family assets, and the actual income earned from interest accrual (as self-certified by the family) will be included in the family's annual income.

Example F5: Life Insurance

Background: The cash value of life insurance policies that are available to the participant before death are included in net family assets (e.g., the surrender value of a whole life policy or a universal life policy). Net family assets will not include the value of term life insurance, which has no cash value to the individual before death.

Scenario A: The Johnson family has a whole life insurance policy with a face value of \$100,000 and a surrender value of \$30,000. Net family assets will include \$30,000 for the life insurance policy. The Johnson's family policy also pays an annual dividend of \$100. This will be included as actual income.

Scenario B: The Dexter family has a term life insurance policy with a face value of \$100,000 payable upon death. The total amount included in the family's net family assets for this insurance policy will be \$0.

F.5 Passbook Rate

Regulation: 24 CFR § 5.609(a)(2)

Summary: HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis. PHAs/MFH Owners must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (a figure that is annually adjusted for inflation). The HUD-published passbook rate will be posted to a dataset on the HUD User Web site, alongside annual inflationary adjustments (see [Attachment H](#)).

To determine the passbook rate for the next calendar year, HUD will average the most recent three months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent. In order to ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate the update in July each year, using FDIC data from April, May, and June for publication on HUD User not later than September 1.

For 2024, the passbook rate will be 0.40 percent. Below is an explanation of how the passbook rate was calculated for 2024. For reexaminations that occur after January 1, 2024, but before the date on which the PHA/MFH Owner implements the new passbook rate, PHAs may continue to set their own passbook rates, and MFH Owners must continue to use the 0.06 percent passbook rate. PHAs may also choose to implement the 2024 HUD passbook rate before complying with HOTMA as they have the flexibility to set their own passbook rate.

Table F3: Calculation of Passbook Rate for 2024

FDIC Monthly Update, Date of Publication	National Deposit Rate, Savings Accounts
4/17/2023	0.39 percent
5/15/2023	0.40 percent
6/20/2023	0.42 percent
HUD Passbook Rate (average of 3 months of FDIC National Deposit Rates)	0.40 percent

PHA/MFH Owner Discretion: None. PHAs were previously permitted to set their own passbook rates within a HUD-published range; effective with the final rule, PHAs/MFH Owners will be required to use the HUD-published passbook rate. The final rule supersedes Notice H 2016–01 (Passbook Saving Rate Effective February 1, 2016).

F.6 Actual and Imputed Income from Assets

Regulation: 24 CFR § 5.609(a)(2)

Summary: Actual income and imputed income are treated as described below.

F.6.a Actual Income

Actual income from assets is always included in a family’s annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The following examples illustrate how to calculate actual income from assets.

Example F6: Actual Asset Income from an Asset Excluded from Net Family Assets

Background: Eugene Park owns a checking account with \$3,500 that earns 0 percent interest. He also has a savings account with a balance of \$10,000 for which he expects to earn \$300 in annual interest. Mr. Park has no other assets. Because those assets are classified as non-necessary personal property, and their combined value of \$13,500 does not exceed \$50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets (see paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice). The total value of Eugene Park’s net family assets is \$0, and \$300 is included in annual income.

Scenario

Total value of assets: $\$3,500 + \$10,000 = \$13,500$

Net family assets: \$0.00 (total value of assets is less than \$50,000, therefore the value is excluded from net family assets)

Result: Actual income from assets (must be included in the calculation of annual income for Eugene Park): \$300 (\$0 from checking account + \$300 from savings account)

**Example F7: Calculating Net Family Assets and Actual Asset Income
when Net Family Assets Exceed \$50,000 (As Adjusted)**

Background: Sherry McNeil received a federal tax refund of \$1,200 and deposited the refund into her checking account. At the time of her annual reexamination six months later, the account had a balance of \$10,000 and earns 0-percent interest. Sherry also owns a stock portfolio with a verified value of \$45,000. The stocks earned \$405 in cash dividends last year, which Sherry expects to earn again in the coming year.

Scenario

Total value of assets: \$55,000 (\$10,000 + \$45,000)

Net family assets: \$53,800 (\$55,000 – \$1,200) (tax refund received in the last 12 months is excluded from net family assets under § 5.603(b)(3)(xi).) Because the total value of Sherry’s non-excluded assets exceeds \$50,000, this value (\$53,800) is included as net family assets and must be confirmed via third-party verification.

Actual Income from Checking Account: \$0 earned (\$10,000 x 0 percent)

Actual Income from Stock Portfolio: \$405 earned in dividends last year on \$45,000

Result: Total actual income from assets (must be included in the calculation of annual income for Sherry McNeil): \$405 (\$0 + \$405)

F.6.b Imputed Income

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds \$50,000 (as adjusted for inflation);
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate (see Table F3 above). If the actual income from assets can be computed for some assets but not all assets, then PHAs/MFH Owners must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated. After the PHA/MFH owner has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over \$50,000.

When the family’s net family assets do not exceed \$50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset — which can equal \$0 — can be calculated, imputed income is not calculated for that asset.

Example F8: Combining Actual and Imputed Asset Income

Background: The Jorgensen family owns a small piece of vacant land with a cash value of \$25,000. The family also owns a savings account with a verified balance of \$55,000, with an interest rate of 0 percent. The family's total net assets are \$80,000. The PHA/MFH Owner can calculate the actual income of the savings account as \$0, as seen below. The PHA/MFH Owner is unable to calculate the actual income earned for the property owned by the family, because the property neither generates any income for them nor could an income amount be computed as a matter of interest or dividend earnings. Therefore, imputed asset income for the real property must be calculated. The passbook savings rate in effect is 0.10 percent.

Scenario

Actual Income from savings account: $\$55,000 \times 0 \text{ percent} = \0 actual income of savings account

Imputed income from family's property: $\$25,000 \times 0.001 = \25 imputed income

Result: Total asset income (must be included in the calculation of annual income for the Jorgensen family): \$25 (\$0 + \$25)

PHAs/MFH Owners should not conflate an asset with an actual return of \$0 (as in the example above), with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of non-necessary personal property. If the asset is a financial asset and there is no income generated (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

Example F9: Imputing Income when Actual Income Cannot Be Calculated

Background: The Conrad family owns a recreational boat with a Kelley Blue Book value of \$15,000. They also own a checking account with \$10,000 that earns 0 percent interest and a savings account with \$30,000 that earns 3 percent interest, putting their net family assets value at \$55,000. No actual returns on the boat can be computed, however actual income can be calculated for the savings account. The passbook savings rate in effect is 0.10 percent.

Scenario

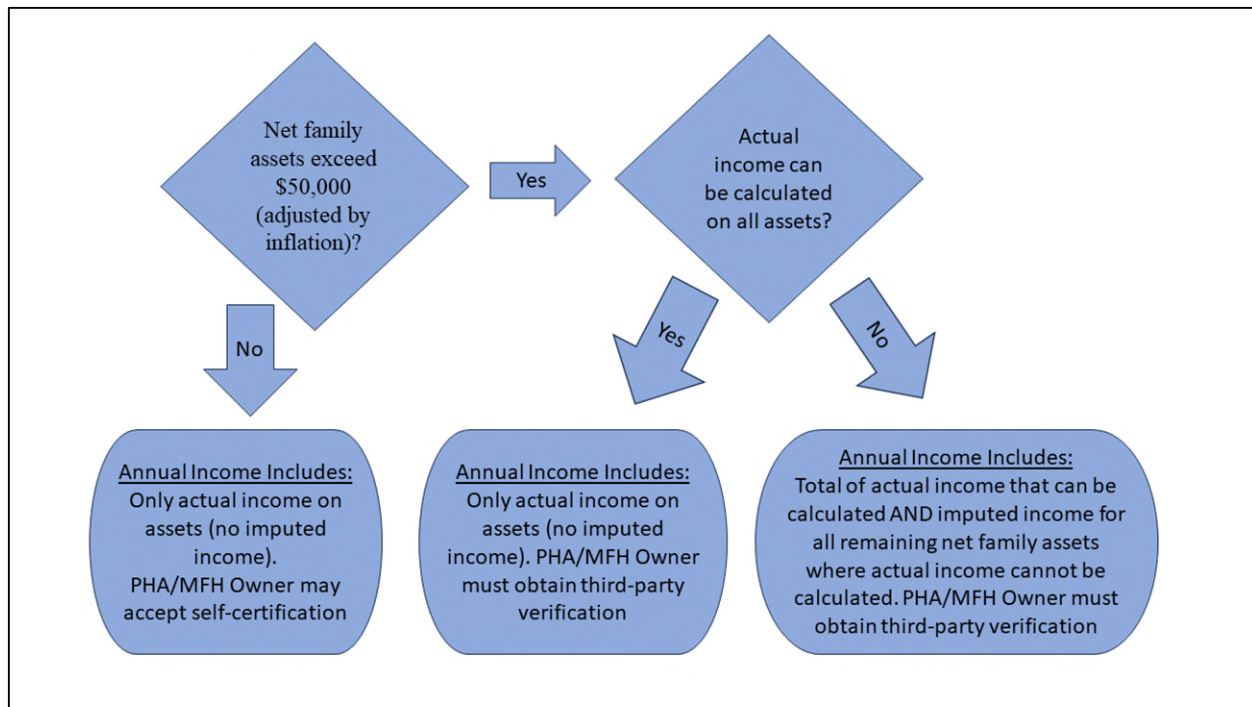
Actual income from assets: $\$900 ((\$10,000 \times 0 \text{ percent}) + (\$30,000 \times 0.03))$

Imputed income from assets: $\$15 (\$15,000 \times 0.001)$

Result: Total income from assets (must be included in the calculation of annual income for the Conrad family): \$915 (\$900 + \$15)

The following chart illustrates different net family asset scenarios and whether to include actual and/or imputed assets in the family's annual income determination.

Chart F1: Decision Chart for Determining Income from Assets



PHA/MFH Owner Discretion: None.

F.7 Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 891.655; 960.259(c)(2); and 982.516(a)(3)

Summary: PHAs/MFH Owners may determine net family assets based on a self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination. PHAs/MFH Owners are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. When PHAs/MFH Owners accept self-certification of net family assets at reexamination^{F4}, the PHA/MFH Owner must fully verify the family's assets every three years.

PHAs/MFH Owners may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The family's self-certification must state the amount of income the family anticipates receiving from such assets. The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHAs/MFH Owners must clarify, during the self-certification process, which assets are included/excluded from net family assets.

^{F4} See 24 CFR § 5.659(e); 960.259(c)(2); 982.516(a)(3).

PHAs/MFH Owners may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example F10: Self-Certification of Net Family Assets

We know from Example F1 that the Cross family's net family assets are \$0. In this case, the checking account earns 0.07 percent interest annually.			
<u>Cross Family's Personal Property</u>			
Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	\$5,000	Non-necessary personal property	\$5,000
Ring (engagement ring)	\$3,000	Necessary personal property	\$0
Recreational boat	\$15,000	Non-necessary personal property	\$15,000
Total Non-necessary personal property			\$20,000
<u>Calculation of Cross Family's Total Net Assets</u>			
Asset	Total to be considered in Net Family Assets	Anticipated Income	
Non-necessary Personal Property (Checking Account)	\$0	\$3.50	
Real Property	N/A	N/A	
Total:	\$0	\$3.50	
The PHA/MFH Owner may accept a self-certification of assets from the Cross family if the PHA/MFH Owner has a policy to do so (see paragraph below this example for PHA/MFH Owner Discretion on accepting self-certification). The self-certification must include any anticipated income from assets. In this example, if the PHA/MFH Owner is accepting a self-certification of assets, then the calculations above would not need to be included on the self-certification form. Only the total anticipated income from assets must be included on the form. Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), the family must report actual asset income from the checking account (in this case, \$3.50).			

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation. PHAs/MFH Owners who choose not to accept self-certifications of assets must verify all families' assets on an

annual basis. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, PHAs/MFH Owners are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance.

PHAs/MFH Owners must include in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, whether and when they accept a self-certification of assets equal to or less than \$50,000, which amount will be adjusted annually by HUD. See [Attachment H](#) (Inflationary Adjustments) of this notice for more information.

ATTACHMENT G: TOPIC: INCOME EXCLUSIONS

Regulations

24 CFR §§ 5.609(b)(4)–(5); 5.609(b)(7)–(10); 5.609(b)(14)–(15); 5.609(b)(17); 5.609(b)(19)–(24); 5.609(b)(24)(i)–(vii); 5.609(b)(25); 5.609(b)(27)–(28); 5.611; 891.105 and 891.655

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The section below provides descriptions and clarifying information for new and updated income exclusions referenced in 24 CFR § 5.609(b). Please note that this section does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule.

PHAs/MFH Owners must revise their interview guides and individual verification forms to ensure that adequate information will be collected to make appropriate income exclusion determinations.

Subtopics

G.1 Nonrecurring Income

Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105

Summary: The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, an increasing number of cities and states are piloting guaranteed income

programs that have discrete beginning and end dates. This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual reexamination effective 2/1/2024, guaranteed income that will be repeated in the coming year but will end before the next reexamination on 2/1/2025 will be fully excluded from annual income.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;
- Direct federal or state economic stimulus payments;
- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;
- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts);
- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.).

PHAs/MFH Owners may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Example G1: Recurring and Nonrecurring Income

Scenario A: Non-recurring earned income excluded from annual income: Justin Clark worked for four months over the past year for a company that has since gone out of business. During the Clark family's reexamination interview, the PHA/MFH Owner asks Justin whether he expects to work for the company again in the coming year. Justin provides proof that the company went out of business. The PHA/MFH Owner must exclude Justin's earned income received from the company that went out of business from the family's annual income.

Scenario B: Recurring earned income included in annual income: Ana Johnson works as an independent information technology (IT) contractor during various times of the year, when her clients require additional IT contract support. Ana reasonably believes that she will be contracted again the following year based on discussions with her clients. The PHA/MFH Owner must include the income that Ana earns as an IT contractor in the family's annual income.

Scenario C: Guaranteed Basic Income (GBI) excluded from annual income: Lucretia Jones reports at her upcoming annual reexamination effective on 5/1/24 that her GBI program will be ending on 1/31/25. The

PHA/MFH Owner excludes this income because the programs will stop before the next annual reexamination on 5/1/25. This income must be excluded, because there is a set term for the program, and the payments will not be repeated beyond the coming year, which is the final year of a GBI program.

Scenario D: Research stipend included as annual income: Lillian Gonzalez reports at the annual reexamination that will be effective on 5/1/24 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 9/30/25. The PHA/MFH Owner includes this as income because the amounts will be received through the next annual reexamination on 5/1/25. For the 5/1/25 annual reexamination, the family provides a letter stating that the income will end on 9/30/25, so the PHA/MFH Owner will exclude the income received after the 5/1/25 annual reexamination.

PHA/MFH Owner Discretion: None.

G.1.a Nonrecurring Income: Temporary U.S. Census Bureau Employment

Regulation: 24 CFR § 5.609(b)(24)(i)

Summary: Payments from the U.S. Census Bureau for employment relating to the decennial census or the American Community Survey lasting no longer than 180 days and not culminating in permanent employment are excluded from annual income. However, it should be noted that any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.1.b Nonrecurring Income: Economic Stimulus or Recovery Payments

Regulation: 24 CFR § 5.609(b)(24)(ii)

Summary: Direct federal or state payments intended for economic stimulus or recovery are excluded from annual income.

HUD will continue to advise PHAs/MFH Owners of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.

PHA/MFH Owner Discretion: None.

G.1.c Nonrecurring Income: State Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iii)

Summary: Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.d Nonrecurring Income: Federal Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iv)

Summary: Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.e Nonrecurring Income: Gifts

Regulation: 24 CFR § 5.609(b)(24)(v)

Summary: Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries) are excluded from annual income.

Example G2: Gifts for Holidays, Birthdays, or Other Significant Life Events or Milestones

Mariah Smith received a check for \$250 on her 25th birthday from her favorite aunt and \$30 from her cousin. These gifts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.f Nonrecurring Income: In-Kind Donations

Regulation: 24 CFR § 5.609(b)(24)(vi)

Summary: Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income. When calculating annual income, PHAs/MFH Owners are prohibited from assigning monetary value to non-monetary in-kind donations received by the family from a food bank or similar organization.

Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. See (24 CFR § 5.609(b)(24)).

Example G3: In-Kind Donations

Jonas Crandall receives a basket weekly from the local food bank that includes both food and toiletries. Because this is an in-kind donation from the local food bank, the PHA/MFH Owner must not include the basket items in the calculation of annual income.

PHA/MFH Owner Discretion: None.

G.2 Lump-Sum Additions to Net Family Assets

Regulation: 24 CFR § 5.609(b)(24)(vii)

Summary: Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Example G4: Lump-Sum Additions to Net Family Assets

Scenario A: Trevor Lucky bought 10 lottery tickets and discovered that one of the tickets won Trevor \$1,000. Trevor reported his winnings as part of an interim reexamination. The PHA/MFH Owner determined that the lottery winnings are a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario B: Logan fundraises \$5,000 online to help pay for personal expenses (e.g., “Go Fund Me”). The PHA/MFH Owner verified with Logan that this was a one-time solicitation for donations of cash and that Logan

does not intend for this to be a recurring source of income. The \$5,000 is a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario C: At the next annual reexamination, the PHA/MFH Owner determines that Logan solicited for donations online a second time and raised an additional \$4,500. Again, Logan certified that he does not intend for this to be a recurring source of income, but, because the PHA/MFH Owner can establish a pattern, the \$4,500 is **not** considered a lump-sum addition to net family assets and **should** be included in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.3 Income Earned on Amounts Placed in a Family’s Family Self Sufficiency (FSS) Account

Regulation: 24 CFR § 5.609(b)(27)

Summary: Income earned on amounts placed in a family’s FSS account is excluded from the family’s calculation of annual income.

PHA/MFH Owner Discretion: None.

G.4 Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

Summary: Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family’s calculation of annual income.

PHA/MFH Owner Discretion: None.

G.5 Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments

Regulation: 24 CFR § 5.609(b)(4)

Summary: Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income.

This income exclusion also applies to Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

PHA/MFH Owner Discretion: None.

G.6 Insurance Payments or Settlements

Regulation: 24 CFR § 5.609(b)(5)

Summary: Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers’ compensation, are excluded from annual income. Any workers’ compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Example G5: Insurance Payments or Settlements

Bethanne Williams received a settlement from her insurance company in the amount of \$2,500 because of a car accident. Bethanne's car accident settlement payment is excluded from annual income.

Example G6: Workers' Compensation Received In Lieu of Wages

Tobias Reynolds was injured in a work accident. He is receiving bi-weekly workers' compensation payments. These amounts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.7 Civil Action Recoveries or Settlements

Regulation: 24 CFR § 5.609(b)(7)

Summary: Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.

Example G7: Civil Action Recoveries or Settlements

Jacob Mitchell became a person with disabilities due to a construction site accident. He received \$60,000 from a civil negligence case. The \$60,000 received by Jacob is excluded from annual income.

PHA/MFH Owner Discretion: None.

G.8 Earned Income of Dependent Full-Time students

Regulation: 24 CFR § 5.609(b)(14)

Summary: Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the first \$480 of the income earned by dependent full-time students will be included in the family's calculation of annual income.

The dependent deduction will be adjusted annually in accordance with the (CPI-W). See [Attachment H](#). Full-time dependent students are eligible to receive both the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.9 Adoption Assistance Payments

Regulation: 24 CFR § 5.609(b)(15)

Summary: Adoption assistance payments in excess of \$480 per adopted child are excluded from the family's calculation of annual income. This amount will be adjusted annually in accordance with the CPI-W. See [Attachment H](#).

All dependents, including adopted family members, are eligible to receive the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.10 Veterans Regular Aid and Attendance

Regulation: 24 CFR § 5.609(b)(17)

Summary: Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

Certain veterans are eligible for “aid and attendance” payments from the Veterans Affairs (VA) Administration. These payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. PHAs/MFH Owners should carefully review any income documentation provided by the family, because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income.

PHA/MFH Owner Discretion: None.

G.11 Home-Based Care Payments for a Family Member(s) with a Disability(ies)

Regulation: 24 CFR § 5.609(b)(19)

Summary: Payments made by or authorized by a state Medicaid agency (including through a managed-care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family’s assisted unit are excluded from the calculation of the family’s annual income. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed-care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family’s assisted unit.

A family member with a disability qualifies for this income exclusion. Amounts received may be intended for items such as services, equipment, and compensation provided to a family member. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family’s assisted unit. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

PHA/MFH Owner Discretion: None.

G.12 Loan Proceeds

Regulation: 24 CFR § 5.609(b)(20)

Summary: Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income. The

loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable.

Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

PHA/MFH Owner Discretion: None.

G.13 Certain Payments Received by Tribal Members

Regulation: 24 CFR § 5.609(b)(21)

Summary: Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law, are excluded from annual income.

Generally, payments received by tribal members in excess of the first \$2,000 of per-capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by this notice.^{G1}

The following two subsections describe the circumstances when settlement payments paid to Tribal members are excluded from annual income through federal law or as required under the IRC.

G.13.a Cobell Settlement

In *Elouise Cobell et al. v. Ken Salazar et al.*,^{G2} a class of individual members of Indian tribes filed suit against the United States for its failure to adequately manage certain trust assets. The settlement was authorized pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). In accordance with the Act, lump-sum or periodic payments received by an individual Indian under the Cobell Settlement are statutorily excluded from counting toward a family's annual income, or as a resource, for purposes of determining initial eligibility or level of HUD assistance, for a period of one year from the time of receipt of that payment. This exclusion from income applies to all HUD programs and is included in the

^{G1} A payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per-capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion. If a family member who is a tribal member receives the Internal Revenue Service (IRS) Form 1099–MISC, Miscellaneous Income, from the tribe for reporting Indian gaming profits, then this payment must be counted toward the family's annual income.

^{G2} https://naturalresources.house.gov/uploadedfiles/cobellsettlementagreement_120709.pdf.

list of federally mandated exclusions from annual income that HUD periodically publishes in the *Federal Register*.^{G3}

G.13.b Tribal Trust Settlements

The United States has entered into settlements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted in, or will result in, per-capita payments to Indian families by Indian tribes. To date, at least 70 Indian tribes have settled Tribal Trust cases.

24 CFR 5.609(b)(21) requires that certain payments received by Tribal members, to the extent that such payments are excluded from gross income under the IRC, must be excluded from family income. The Internal Revenue Service (IRS) issued guidance in IRS Notice 2013–1, “Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases,” advising that per-capita payments made from the proceeds of the enumerated Tribal Trust Settlements are excluded from the gross income of the members of the tribe receiving the per-capita payments under 25 USC 117b(a) and 25 USC 1407.

IRS Notice 2013–1 also clarifies, however, that per-capita payments that exceed the amount of the Tribal Trust Settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the per-capita payments. For example, if an Indian tribe receives proceeds under a settlement agreement, invests the proceeds in a private bank account that earns interest, and subsequently distributes the entire amount of the bank account as per-capita payments, then a member of the tribe excludes from gross income that portion of the member’s per-capita payment attributable to the settlement proceeds under 25 USC 117b(a) and 25 USC 1407 and must include the remaining portion of the per-capita payment in gross income in accordance with the guidance provided in IRS Notice 2013-1. Per-capita payments not excluded from gross income in accordance with the IRC should be reviewed for potential exclusion as “nonrecurring income” (24 CFR § 5.609(b)(24)) or as “lump sum additions to net family assets” (24 CFR § 5.609(b)(24)(vii)).

The IRS last updated the list of Indian tribes who have entered into Tribal Trust Settlements with the United States in 2013,^{G4} and for whom per-capita Tribal Trust payments are excluded from gross income. PHAs/MFH Owners should ensure they are reviewing the current list of Tribal Trust Settlements when determining whether a family’s per-capita proceeds should be excluded from annual income.

^{G3} Last published on 5/20/2014: <https://www.federalregister.gov/documents/2014/05/20/2014-11688/federally-mandated-exclusions-from-income-updated-listing>.

^{G4} See IRS Notice 2013-55, available at: <http://www.irs.gov/pub/irs-drop/n-13-55.pdf>.

Example G8: Tribal Trust Settlements

Scenario A: An Indian tribe received \$1.2 million from a Tribal Trust Settlement. The Indian tribe immediately distributed per-capita payments to its members. The Tribal Trust Settlement is treated in accordance with the guidance in IRS Notice 2013–1 and excluded from adjusted gross income under 25 USC 117b(a) and 25 USC 1407. Therefore, the per-capita payments to members are excluded from annual income.

Scenario B: An Indian tribe received \$10 million from a Tribal Trust Settlement. The Indian tribe invested the settlement funds at a private institution. After a year, the Indian tribe distributed the settlement funds plus earned interest to its members. IRS Notice 2013–1 provides guidance that per capita payments that exceed the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are not excluded from adjusted income under 25 USC 117b(a) and 25 USC 1407, so the interest payments to members are not excludable from annual income under 24 CFR 5.609(b)(21). The PHA/MFH Owner must determine whether the per-capita interest payments to members should be included in the family’s income or excluded from income under a different regulatory provision such as 24 CFR 5.609(b)(24).

Please note that the first \$2,000 of per capita payments are also excluded from assets, except when these per capita payments are in excess of the settlement amount and are included (IRS Notice 2013-1, 25 USC 117b(a), and 25 USC 1407).

PHA/MFH Owner Discretion: None.

G.14 Exclusions from Other Federal Statutes

Regulation: 24 CFR § 5.609(b)(22)

Summary: This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

PHA/MFH Owner Discretion: None.

G.15 Replacement Housing Gap Payments

Regulation: 24 CFR § 5.609(b)(23)

Summary: Replacement housing “gap” payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA”), as implemented by 49 CFR Part 24, are excluded from annual income. “Gap” payments offset the increased out-pocket costs of displaced persons who move from one federally subsidized housing unit to another federally subsidized housing unit.

However, replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

Replacement housing “gap” payments should cover a minimum of 42 months of tenancy at the new unit.

Example G9: Replacement Housing Gap Payments

The Patel family was displaced from their Project-Based Voucher unit as the result of a HUD-funded acquisition and rehabilitation of the property that will last longer than one year. The family subsequently obtained a Housing Choice Voucher (HCV) and moved into a home where the owner accepts HCVs. The Patels' rent and utility expenses are \$100 higher in their new unit. The Patels receive replacement housing "gap" payments of \$100 intended to cover the difference between the Patels' former rent and utility expenses in their Project-Based Voucher unit and their current rent and expenses under their HCV assistance. The "gap" payments must be excluded from the family's annual income for the period during which gap payments are provided under the URA (42 months) or the increased cost of rent and utilities is reduced or eliminated, whichever is shorter.

PHA/MFH Owner Discretion: None.

G.16 Student Financial Assistance

Regulation: 24 CFR § 5.609(b)(9)

Summary: The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance applicable to MFH and PIH programs are described below.

G.16.a Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)

Section 479B provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds. The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

G.16.b Other Student Financial Assistance

Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or
- Gifts, including gifts from family or friends.

Note: Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. The PHA/MFH Owner must verify that the other student financial assistance is for the student's actual covered costs.

The following sections describe the treatment of the two above-described types of student financial assistance by program type.

G.16.c Non-Section 8 Programs Subject to this Notice

All assistance received under 479B of the HEA by students participating in the Public Housing or non-Section 8 programs administered by MFH is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income. Prior to the final rule, the full amount of student financial assistance paid directly to the student or to the educational institution was excluded.

Actual covered costs include: tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1087uu)). For a student who is not the head of household, co-head, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. This formula is illustrated in chart 2, below.

Chart G1: Steps in Calculating Amount of Other Student Financial Assistance

Step 1: Subtract the **amount received under section 479B of the HEA** from the **actual covered costs** to arrive at the **amount of actual covered costs exceeding section 479B assistance**.

If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income for students participating in the Public Housing and non-Section 8 programs administered by MFH.

Step 2: Subtract the **actual covered costs exceeding section 479B assistance** from the amount of **other student financial assistance** to arrive at the amount of **student financial assistance included in income**.

Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in income (i.e., all student financial assistance is excluded from annual income).

The following examples illustrate the treatment of student financial assistance for Public Housing and non-Section 8 programs:

Example G10: Treatment of Student Financial Assistance in Non-Section 8 Programs

Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: \$25,000; University Scholarship: \$15,000; Rotary Club Scholarship: \$3,000.	
Total assistance received under 479B of HEA: \$25,000 (Federal Pell Grant) Total other student financial assistance received: \$18,000	Juan's actual covered costs: \$28,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance. \$28,000 (actual covered costs) minus \$25,000 (total assistance received under 479B of HEA) equals \$3,000	Step 2: Determine amount of student financial assistance to include in income. \$18,000 (other student financial assistance received) minus \$3,000 (actual covered costs exceeding section 479B assistance) equals \$15,000 (if negative, then use \$0)
Amount of student financial assistance included in Juan's income: \$15,000	

**Example G11: Treatment of Student Financial Assistance in
Non–Section 8 Programs**

Sarah is a part-time student, and she received the following amounts to cover her first year of college: Federal Perkins Loan: \$2,000; Scholarship from Local Car Dealership: \$500; Gift from Aunt Lois: \$1,000. The \$1,000 is a gift from Aunt Lois, so it is not considered student financial assistance, and it is not considered in this calculation. Note: If Aunt Lois gives Sarah the \$1,000 gift as a one-time, lump-sum payment, it would be excluded from income under 24 CFR § 5.609(b)(24)(vii).	
Total assistance received under 479B of HEA: \$2,000 (Federal Perkins Loan) Total other student financial assistance received: \$500 Total non-student financial assistance: \$1,000 Total student financial assistance: \$2,500	Sarah's actual covered costs: \$3,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance. \$3,000 (actual covered costs) minus \$2,000 (total assistance received under 479B of HEA) equals \$1,000	Step 2: Determine amount of student financial assistance to include in income. \$500 (other student financial assistance received) minus \$1,000 (amount of actual covered costs exceeding section 479B assistance) equals –\$500 (if negative, then use \$0)
The amount of student financial assistance received by Sarah is less than her actual covered costs after deducting assistance received under 479B of the HEA and other student financial assistance received, therefore there is no student financial assistance to include in income. Amount of student financial assistance included in Sarah's income: \$0	

**Example G12: Treatment of Student Financial Assistance
in Non–Section 8 Programs**

Dante is a full-time student, and he received the following amounts to cover his first year of college: Federal Pell Grant: \$9,000; Federal Perkins Loan: \$13,000; Local Library Scholarship: \$1,000.	
Total assistance received under 479B of HEA: \$22,000 (Federal Pell Grant plus Federal Perkins Loan) Total other student financial assistance received: \$1,000	Dante's actual covered costs: \$16,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance. \$16,000 (actual covered costs) minus \$22,000 (total assistance received under 479B of HEA) equals \$–6,000	Step 2: Determine amount of student financial assistance to include in income. Not necessary because Step 1 resulted in a negative amount, so all other student financial assistance would be included in Dante's income
Amount of student financial assistance included in Dante's income: \$1,000	

G.16.d Section 8 (Including HCV and 202/8)

There are distinct differences in the treatment of student financial assistance between the Section 8 program and the Public Housing and non–Section 8

programs administered by MFH due to language in the annual appropriations acts. Section 210(b) of the Consolidated Appropriations Act, 2023,^{G5} requires that, “for purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.” HUD interprets that “a person over the age of 23” is 24 years old.

While the Consolidated Appropriations Act, 2023, language is limited to federal fiscal year 2023, this does not rule out the possibility that similar language will be included in future years’ appropriations bills. For any funds from a year where HUD’s appropriations include this Section 8 student financial assistance limitation, if the student is the head of household, co-head, or spouse and is under the age of 23 or without dependent children, then both the assistance received under 479B of the HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total of tuition and any other required fees and charges.^{G6} In contrast, the student financial assistance received by a Section 8 student who is the head of household, spouse, or co-head of household and is over the age of 23 with dependent children will be treated in a manner identical to the student financial aid received by students who participate in the Public Housing and non–Section 8 programs administered by MFH.

During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described above for the Public Housing and non–Section 8 programs administered by MFH.

There are two steps required as part of the calculation for Section 8 students, the first of which is to determine the student’s relationship to the household, age, and whether they have dependent children; based on the result of the first step, the second step is to calculate whether any excess student financial assistance should be included in the family’s income. If the student is the head of household, co-head, or spouse and is 23 or younger or does not have dependent children, then 479B assistance **will** be part of the total equation (see example G13, below). If the

^{G5} <https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf>.

^{G6} The definition of tuition and other required fees and charges for Section 8 students is synonymous with the definition of “actual covered costs” described in the previous section for the Public Housing and non–Section 8 programs administered by MFH. For Section 8 students, HUD uses the term “tuition and other required fees” solely to reflect the language in the appropriations bill.

student is over 23 with dependent children, then the calculation will be identical for Public Housing and non-Section 8 MFH students, as described above.

The formula for calculating the excess amounts of financial assistance included in annual income is a one-step process of subtracting the total tuition plus required fees and charges from the total student financial assistance from all sources. The one-step calculation is illustrated in chart 3, below.

Chart G2: Formula for Calculating Excess Amounts of Financial Assistance

Subtract total tuition plus required fees and charges from the total student financial assistance from all sources to arrive at excess amount of student financial assistance.

If the excess amount of student financial assistance is a positive number, then include that amount in annual income. If the excess amount of student financial assistance is zero or negative, then do not include that amount in annual income.

If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no excess amounts of student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

**Example G13: Treatment of Student Financial Assistance
in Section 8 Programs**

Roberto is a 22-year-old full-time student without dependent children. Since Roberto is a Section 8 participant head of household who is not over 23 with dependent children, the PHA/MFH Owner follows the Appropriations Act policy to determine if Roberto receives student financial assistance in excess of tuition from both HEA and other sources. Roberto received the following amounts to cover his first year of college: Federal Pell Grant: \$12,000; University Scholarship: \$22,000; City Scholarship: \$3,000.

Total assistance received under 479B of HEA: \$12,000
(Federal Pell Grant)

Total other student financial assistance received:
\$25,000

Total student financial assistance from all sources:
\$37,000

Total tuition + required fees and charges: \$27,000

Subtract the total cost of tuition + required fees and charges from the total amount of student financial assistance:
 $\$37,000 - \$27,000 = \$10,000$

The total amount of student financial assistance from all sources received by Roberto exceeds the total amount of tuition and required fees and charges.

Excess student financial assistance: \$10,000

Amount of student financial assistance included in Roberto's income: \$10,000

**Example G14: Treatment of Student Financial Assistance
in Section 8 Programs**

Cedric is a 28-year-old head of household and a full-time student with a 5-year-old daughter and a 9-year-old son who are his dependents. The PHA/MFH Owner will follow the rules under § 5.609(b)(9) (the same as for non-Section 8 programs) as described in the previous section. Cedric received the following amounts to cover his first year of college: Teach Grant: \$8,000; Federal Pell Grant: \$3,000; College Scholarship: \$6,000.	
Total assistance received under 479B of HEA: \$11,000 (Teach Grant plus Federal Pell Grant) Total other student financial assistance received: \$6,000	Total tuition + required fees and charges: \$26,000
Step 1: Determine amount of tuition plus required fees exceeding 479B assistance. \$26,000 (total tuition + required fees and charges) minus \$11,000 (total assistance received under 479B of HEA) equals \$15,000	Step 2: Determine amount of student financial assistance to include in income. \$6,000 (other student financial assistance received) minus \$15,000 (amount of tuition + required fees and charges exceeding 479B assistance) equals -\$9,000 (if negative, then use \$0)
The amount of other student financial assistance received by Cedric does not exceed the total amount of tuition and required fees and charges.	
Excess student financial assistance: \$0	
Amount of student financial assistance included in Cedric's income: \$0	

**Example G15: Treatment of Student Financial Assistance
in Section 8 Programs**

Angel is a 38-year-old full time student, head of household, without dependent children. Since Angel does not have dependent children, the Appropriations Act policy does not apply, and the PHA/MFH Owner must include assistance received under 479B of the HEA as part of the excess student financial aid calculation. Angel received the following amounts to cover her first year of college: Perkins Loan: \$8,000.	
Total assistance received under 479B of HEA: \$8,000 (Perkins Loan)	Total tuition + other fees and charges: \$6,200
Determine whether the amount of student financial assistance, including 479B assistance, exceeds the total of tuition + required fees and charges: \$8,000 – \$6,200 = \$1,800	
Excess student financial assistance: \$1,800	
Amount of student financial assistance included in Angel's income: \$1,800	

PHA/MFH Owner Discretion: None.

G.17 Achieving a Better Life Experience (ABLE) Accounts

Regulation: 24 CFR § 5.609(b)(22)

Summary: ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income.

HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of 2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions. See *Treatment of ABLE Accounts in HUD-Assisted Programs* (Notice H 2019–06/PIH 2019–09).

PHA/MFH Owner Discretion: None.

G.18 Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and “Baby Bond” Accounts

Regulation: 24 CFR § 5.609(b)(10)

Summary: Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government are excluded from income and net family assets.

PHA/MFH Owner Discretion: None.

G.19 Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

Summary: The gross income received by a family through self-employment, or the operation of a business is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family’s annual income, the net income of the business must first be determined.

Net income is the “gross income amount minus business expenses” that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS’s regulations.^{G7} Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

^{G7} 26 CFR § 1.167(b)-1 Straight line method: [https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part-1/subject-group-ECFRc4930337f38ecfd/section-1.167\(b\)-1](https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part-1/subject-group-ECFRc4930337f38ecfd/section-1.167(b)-1).

**Example G16: Exclusion of Gross Income
from Self-Employment or Operation of a Business**

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.20 Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

Summary: The Earned Income Disregard (EID) will not apply to any family who is not eligible for **and already participating in** the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

Note: The EID policies described above are distinct from similar policies in the Jobs Plus program. Families eligible to receive the Jobs Plus program rent incentive (Jobs Plus Earned Income Disregard (JPEID)) pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs may continue to receive JPEID under the terms of the NOFO. The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees by waiving section 3(d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(d)) and § 960.255(b) and (d). For more information about JPEID waivers and alternative requirements, please review the following *Federal Register* notices: [80 FR 13415](#) (March 13, 2015) and [83 FR 13506](#) (March 29, 2018).

PHA/MFH Owner Discretion: None.

G.21 Civil Rights Settlements or Judgments

Regulation: 24 CFR § 5.609(b)(25)

Summary: Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed a practice of excluding from income civil rights settlements and judgments as lump-sum additions to assets, which would include amounts received as a result of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. However, this new exclusion clarifies that even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded. Additionally, this

exclusion applies to back pay received by the family pursuant to a civil rights settlement or judgment.

PHA/MFH Owner Discretion: None.

ATTACHMENT H: TOPIC: INFLATIONARY ADJUSTMENTS

Regulations

See table H1, below.

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the [HUD User website](#). The publication will apply to both MFH and PIH programs. The revised amounts will be effective on January 1 of the following year. The first set of adjustments for inflation will be made effective January 1, 2025.

HUD plans to publish in the *Federal Register* a notice soliciting the public's comment on HUD's methodology for recalculating inflationary adjusted items.

Table H1: Inflationary Adjustment Items

Adjusted Item	Regulatory Reference	Notice Section	Amount Effective on 1/1/2024 (subject to Annual Adjustment)	Rounding Methodology	Applicable Programs
Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	Attachment A	\$100,000	Nearest dollar	Section 8 PBRA, 202/8, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	Attachment F	\$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod

					Rehab, Section 8 Mod Rehab SRO
Threshold above which the total value of non-necessary personal property is included in net family assets	24 CFR § 5.603(b) <i>Net family assets</i>	Attachment F	\$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
The amount of net assets for which the PHA/MFH Owner may accept self-certification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	Attachment F	\$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	Attachment C	\$525	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	Attachment C	\$480	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing,

					Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for earned income of dependent full-time students	24 CFR § 5.609(b)(14)	Attachment G	\$480	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	Attachment G	\$480	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO

HUD will annually publish the recalculated inflationary-adjusted items to HUD's Policy Development and Research Web site, [HUD User](#). The new amounts will become effective January 1 of the following year.

PHAs/MFH Owners must use the adjusted levels post to HUD User for income and asset calculations effective on or after January 1 of the following year. Note that it will be particularly important for PHAs/MFH Owners who begin reexaminations 90 to 120 days in advance of the effective date of the reexamination to update their documents in a timely manner, because several of these figures must be known from the outset of the reexamination. For example, when a PHA/MFH Owner issues a reexamination notice and requests documents from a family, they must be able to provide a form for the self-certification of assets that includes the updated threshold value of net family assets above which the family may not self-certify.

ATTACHMENT I: TOPIC: INTERIM REEXAMINATIONS

Regulations

24 CFR §§ 5.567(c)(1); 882.515(b)(1); 960.257(b)(1); 982.516(c)(1); 891.105; 891.410(g); 891.610(g); and 891.750

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA ¹¹ , SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA/MFH Owner must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA/MFH Owner becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA/MFH Owner determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. HUD recommends as a best practice that PHAs/MFH Owners maintain documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. HUD also recommends reviewing the applicable regulations to ensure that any program-specific reexamination requirements are addressed¹².

¹¹ HUD is applying 24 CFR § 5.657 to 811 PRA families pursuant to Section 2.4(a)(1) of the Rental Assistance Contract (RAC) Part II.

¹² For example, see 24 CFR § 891.410(g) and § 891.610(g)(3).

I.1 Decreases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

Summary: A family may request an interim determination of family income for **any** change since the last determination. However, the PHA/MFH Owner may decline to conduct an interim reexamination of family income if the PHA/MFH Owner estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income. PHAs/MFH Owners have the discretion to set a lower percentage threshold, in which case that lower percentage threshold must be included in the ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that a family's annual adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by a PHA/MFH Owner in their ACOP, Administrative Plan, or Tenant Selection Plan, as applicable. In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination effective January 1, 2024, or later.

HUD is using its discretion, as authorized by HOTMA, to establish a lower threshold through notice to process interim reexaminations under certain circumstances. Specifically, HUD is requiring PHAs/MFH Owners to apply a 0-percent threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount. If there is no change/decrease in adjusted income as a result of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination. This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income. If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA/MFH Owner will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

Example I1: Interim Reexaminations / Decreases in Annual Adjusted Income

Scenario A: A family with an annual adjusted income of \$9,600 experiences a change in household composition and becomes eligible for two dependent deductions totaling \$960, resulting in a 10-percent decrease in the family's adjusted income. The \$960 decrease in the family's adjusted income would require an interim reexamination, because the income decrease meets the 10-percent threshold for an interim reexamination.

Scenario B: A family experiences an increase in deductible child-care expenses from \$0 to \$12,000 annually. Before the change, their annual adjusted income was \$40,000. Since the child-care expense deduction results in a greater than 10-percent reduction in annual adjusted income, an interim reexamination is required.

Scenario C: A family with an adjusted income of \$9,600 adds a dependent family member with no income. This would result in an adjusted income decrease of \$480 due to the dependent deduction. The decrease does not meet the 10-percent threshold of the family's adjusted income, and because this is a family member joining the assisted

unit (as opposed to a decrease a family size), the PHA/MFH Owner is not required to conduct an interim reexamination. However, the PHA/MFH Owner has adopted a policy that has decreased the threshold from a 10-percent change to a 5-percent change, therefore the decrease would meet the threshold, triggering an interim reexamination.

Scenario D: A family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was \$20,000, but that number decreased to \$18,000 when the family member moved out. Since HUD requires PHAs/MFH Owners to process decreases in adjusted income greater than 0 percent due to decreases in family size, the PHA/MFH Owner must process an interim reexamination.

Scenario E: A family member moves into the assisted unit who receives \$20,000 in pension income (which is more than 10% of the household's adjusted income). At the same time, the head of household got a new job that increases the household's income by \$15,000 per year. The PHA/MFH Owner will process the increase in pension income due to the new household member but will not include the head of household increase in earned income until the next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a percentage threshold lower than 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, the percentage threshold they will use for conducting interim reexamination decreases of a family's annual adjusted income.

PHAs/MFH Owners **are not permitted** to establish a dollar-figure threshold amount instead of a percentage threshold. PHAs/MFH Owners may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5 percent may be rounded up to 10 percent).

I.2 Increases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(3); 882.515(b)(3); 960.257(b)(3); and 982.516(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that the family's adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in an increase of 10 percent or more in annual adjusted income or another amount established through a HUD notice, with the following exceptions:

- PHAs/MFH Owners **may not** consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs/MFH Owners may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

Note: Families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA/MFH Owner's policies.

PHAs/MFH Owners **must not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income. When the family

previously received an interim reexamination for a decrease to annual adjusted income during the same annual cycle, a PHA/MFH Owner has the discretion to consider or ignore a subsequent increase in **earned** income for the purposes of conducting an interim reexamination. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, if they perform interim reexaminations for **earned** income increases that result in a 10-percent increase in annual adjusted income. If a PHA/MFH Owner has a policy of considering increases in earned income after an interim conducted for a decrease in income, and the family's adjusted income has increased by 10 percent or more, the PHA/MFH Owner must conduct an interim reexamination in accordance with local policies. Conversely, PHAs/MFH Owners that adopt local policies to never consider increases in **earned** income must not perform an interim reexamination.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA/MFH Owner must conduct an interim reexamination. When an increase of any size is reported by a family, it is a recommended best practice for the PHA/MFH Owner to note the reported increase in the tenant file.

Example I2: Interim Reexaminations / Increases in Annual Adjusted Income

Scenario A: The Martinez family's annual reexamination is due on 11/1/2024. The family no longer has child-care expenses for their three children. The family stopped paying for daycare as of 8/31/2024 and reported the change (and certified no other changes to annual household income or expenses) to the PHA/MFH Owner on 9/7/2024, resulting in an estimated 15-percent increase in the family's annual adjusted income. Although 15 percent is well above the 10-percent threshold, the PHA/MFH Owner does not process an interim reexamination, because they have a policy to not process changes reported within three months of the next annual reexamination.

Scenario B: The Allen family had an annual adjusted income of \$29,000 as of their last annual reexamination effective 5/1/2024. The family experienced the following changes to income and household composition since 5/1/2024:

- In July, the Allen family's eldest child, Kristina Allen (age 20), starts going to college full-time on a Pell Grant. Kristina is not employed, nor does she receive any other type of student financial assistance. The family now qualifies for a \$480 dependent deduction, because full-time students are considered dependents.
- The family reports Kristina's student status to the PHA/MFH Owner, which noted the change in the family's file. The PHA/MFH Owner is not allowed to perform an interim reexamination, because the dependent deduction represents a 1.7-percent decrease in the family's annual adjusted income, and the PHA/MFH Owner did not establish a threshold lower than 10 percent for interim decreases in income.
- In October, the family added an adult family member, Tom Smith, to the household. The new adult family member receives a pension of \$275 monthly, or \$3,300 annually.

The PHA/MFH Owner determined that the Allen family's new annual adjusted income is \$31,820, accounting for both the addition of Tom's pension income and the deduction of the full-time student dependent allowance for Kristina. The Allen family's annual adjusted income increased a total of \$2,820, or only 9.7 percent. Since this decrease is below the 10-percent threshold, the PHA/MFH Owner will not conduct an interim reexamination. Instead, they will process a non-interim transaction to add Tom to the family without changing the family's annual adjusted income effective 10/1/2024.

Scenario C: The Nguyen family's last annual reexamination was 4/1/2024. In June 2024, Patrick Nguyen lost his job, and the family's adjusted income fell from \$25,000 to \$13,000. The PHA/MFH Owner conducted an interim reexamination for the decrease in income. In November 2024, Kelly Nguyen finds a job, and the family's adjusted income rises to \$18,000. The PHA/MFH Owner has a policy of considering increases in earned income

when an interim reexamination has been performed for a decrease in income. Since the family's adjusted income has increased by more than 10 percent when including earned income, and the family previously received an interim reduction during the same reexamination cycle, the PHA/MFH Owner will conduct an interim reexamination for the increase.

Scenario D: The Mosberg family had an annual adjusted income of \$35,909 based on earned income (and two dependent deductions) as of the last annual reexamination effective 6/1/2024. The family experienced the following changes to income since 6/1/2024:

- In August, Libby reported she received a raise at work, increasing her annual earned income by \$2,650. She also recently started receiving monthly child support payments of \$150, or \$1,800 annually. She reported no other changes to the PHA/MFH Owner. While the **combined** increase of earned income (wages) and unearned income (child support) is a 12.3-percent increase in annual adjusted income since the 6/1/2024 annual reexamination, the PHA/MFH Owner must look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. The earned income is about 7 percent of the increase, and the unearned income is approximately 5 percent of the total 12.3-percent increase.

The PHA/MFH Owner documented in the tenant file that the family reported the change, but an interim reexamination was **not** performed, because the 5-percent increase in annual adjusted income based on **unearned** income does not meet the 10-percent threshold. Further, the PHA/MFH Owner may not perform an interim reexamination for Libby's 7-percent increase in annual adjusted income based on **earned** income, because an interim reexamination for an income decrease during the reexamination cycle was not completed **and** it does not meet the 10-percent threshold to perform an interim. Note: Even if Libby's change in earned income had exceeded 10 percent of her annual income, the PHA/MFH Owner may not perform an interim reexamination, because there was no prior interim reexamination for a decrease in income.

In November, Libby reported that her monthly child support payments increased again, from \$150 to \$325. She certified no other changes to income or deductions. Libby's annual **unearned** income from child support of \$3,900 is now a 10.8-percent increase in annual adjusted income (based on the effective 6/1/2024 annual reexamination), so the PHA/MFH Owner **must** perform an interim reexamination, but only for the **unearned** child support income. The PHA/MFH Owner will continue to disregard the increased **earned** income reported by the family until the Mosberg's next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion on the following policies:

- Whether the PHA/MFH Owner will conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period; and
- Whether the PHA/MFH Owner will count increases in earned income when estimating or calculating whether the family's adjusted income has increased when the family previously received an interim reduction during the same reexamination cycle and whether they will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

PHAs/MFH Owners must establish policies for the above-discretionary items in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable.

PHA/MFH Owner Discretion: None.

I.3 Interim Reexaminations to Determine Public Housing Over-Income Status

Regulations: 24 CFR § 960.507

Summary: Regardless of changes in adjusted annual income, in some circumstances PHAs are required to conduct interim reexaminations of Public Housing families to determine whether they continue to exceed the income limit. When a PHA makes an initial determination that a Public Housing family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

Per 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing families who have been determined to exceed the over-income limit at specific intervals. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent. (24 CFR 960.253). The PHA must conduct an income examination 12 months after the initial over-income determination to determine and provide notification if the family remains over-income, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. The PHA must again conduct an income examination and provide notification 24 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the second over-income determination. An interim income reexamination to determine if a Public Housing family remains over-income does not reset the family's normal annual reexamination date.

See Notice PIH 2023-03 (HA) for additional guidance on the required reexaminations and notice for over-income Public Housing families.

Example I3: Interim Reexamination to Public Housing Over-Income Status

Scenario A: Uninterrupted Grace Period: The Blayney Family

In June 2024, the PHA processed an interim reexamination for the Blayney family effective 7/1/2024 due to an increase in the family's annual adjusted income of 10 percent or more. The PHA sent written notification of its initial determination that the family's income exceeds the applicable over-income limit. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 7/1/2025, to determine if the Blayney family remains over-income, even if the family is paying a flat rent. The PHA must notify the Blayney family that their income has exceeded the over-income limit for 12 consecutive months.

After completion of the 7/1/2025 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit for an additional 12 consecutive months. The PHA must conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 7/1/2026, to determine if the family remains over-income.

At the 7/1/2026 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit. The PHA must either terminate their tenancy in no more than six months from the end of the 24-consecutive-month grace period, by 1/1/2027, or charge them the alternative non-public housing rent (at the next lease renewal or in no more than 60 days after the final notice, whichever is sooner), depending on the PHA's continued occupancy policies.

Scenario B: Interrupted Grace Period: The Morrison Family

The Morrison family experienced an income increase that resulted in an interim reexamination effective 2/1/2024. The family was sent the required written notification no later than 30 days after the PHA's initial determination of the family's over-income status. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 2/1/2025, to determine if the family remains over-income, even if the family is paying a flat rent.

After completion of the interim reexamination effective 2/1/2025, the Morrison family remained over the applicable over-income limit. The PHA must conduct a second interim reexamination, even if the family is paying a flat rent, 24 months from the initial determination, or by 2/1/2026, to determine if the family remains over-income. However, at a regularly scheduled annual reexamination effective 5/1/2025, the family is determined to no longer be over-income. This is prior to the expiration of the 24-month grace period on 2/1/2026. Thus, the grace period no longer applies, and the family remains an income-eligible PH program participant.

If the family is determined to be over-income again in the future, they would be entitled to a new 24-consecutive-month grace period.

PHA Discretion: None.

I.4 Non-Interim Reexamination Transactions

Regulations: 24 CFR §§ 5.657(c)(2) 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: Families may experience changes within the household that do not trigger an interim reexamination under HOTMA but still need to be reported in a non-interim reexamination submission to HUD. In these cases, PHAs/MFH Owners will submit a separate, new action code on form HUD-50058/HUD-50059. Further instructions on the use of this action code will be provided along with supplemental guidance on other revisions to forms HUD-50058/HUD-50059. The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule:

- Adding or removing a hardship exemption for the child-care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Removing a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;

- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

HCV Program Only:

- Processing contract rent changes that do not correspond with an interim or annual reexamination (including PBV rent increases);
- Implementing an update to the payment standard that does not correspond with an interim or annual reexamination.

Note: PHAs/MFH Owners will make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

I.5 Policies for Families to Report Changes to Annual Adjusted Income or Household Composition

Regulations: 24 CFR §§ 5.657(c)(4); 882.515(b)(1)–(4); 882.808(i)(4); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(4); and 982.516(d)

Summary: PHAs/MFH Owners must require families to report **household composition changes**; however, PHAs/MFH Owners determine the timeframe in which reporting happens. PHAs/MFH Owners must develop policies that describe when and under what conditions families must report **changes in annual adjusted income** consistent with the new requirements for processing interim reexaminations. PHAs/MFH Owners are responsible for educating families on the requirements for reporting changes. Families are responsible for reporting these changes to the PHA/MFH Owner. It is the PHA's/MFH Owner's responsibility to track all reported changes to a family's annual adjusted income to ensure that the PHA/MFH Owner is correctly processing interim reexaminations in accordance with HUD's requirements.

A PHA's/MFH Owner's policies may require families to report only changes that the family estimates meet the threshold for an interim reexamination, and the PHA/MFH Owner must determine if an interim reexamination is necessary. Alternatively, PHAs/MFH Owners may establish policies requiring that families report all changes in income and household composition, and the PHA/MFH Owner will subsequently determine if the change requires an interim reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to develop specific reporting policies that describe which changes must be reported to the PHA/MFH Owner and the timeline for reporting the change. For example, PHAs/MFH Owners may develop policies stipulating that families are not required to report **any** income increases that become effective within the last three months of the family's certification period, or PHAs/MFH Owners may develop policies requiring families to report all changes to household composition, income, and deductions within 10 days of the change.

I.6 Processing Time Period for Interim Reexaminations

Regulations: 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

Summary: The updated regulations codified long-standing guidance on how long PHAs/MFH Owners should take to process an interim reexamination.

Families may request an interim determination of income or household composition because of any changes since the last determination. While the PHA/MFH Owner may decline to conduct an interim reexamination of family income if they estimate the family's annual adjusted income will change by less than 10 percent, when the PHA/MFH Owner conducts an interim reexamination, it must be conducted within a reasonable period after the family's request or after the PHA/MFH Owner becomes aware of an increase in the family's adjusted income. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

PHA/MFH Owner Discretion: None.

I.7 Effective Date of Interim Rent Changes

Regulations: 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

Summary: The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

- **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to the PHA/MFH Owner's policies, then the PHA/MFH Owner must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period.

If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

- **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition in a timely manner according to the PHA/MFH Owner's policies, PHAs/MFH Owners must implement any resulting rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income.

Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. The PHA/MFH Owner may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination. PHAs/MFH Owners may also choose to establish conditions or requirements for when such a retroactive application would apply (e.g., where a

family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA/MFH Owner management operations).

PHAs/MFH Owners that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, the PHA/MFH Owner must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility. In the HCV and Moderate Rehabilitation/SRO programs, the PHA must also clearly communicate the effect of the retroactive adjustment to the owner as well. These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination.

An exception to the requirement that a PHA/MFH Owner implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination exist if a PHA/MFH Owner failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example I4, scenario D, below.

Example I4: Effective Date of Interim Rent Changes

Scenario A: The Miller family had a decrease in family income that met the threshold due to the loss of a job on 6/2/2024. They reported the decrease to the PHA/MFH Owner in accordance with the PHA/MFH Owner's policies on 6/15/2024. The interim reexamination must be effective 7/1/2024, regardless of when the PHA/MFH Owner processes the interim reexamination.

Scenario B: The Leon family had an increase of 10 percent or more in annual adjusted income on 6/1/2024 due to receiving a new type of benefit income. The increased income meets the threshold to require an interim. They reported the increase to the PHA/MFH Owner in accordance with local policies on 6/20/2024. The PHA/MFH Owner did not process the interim reexamination until 7/11/2024, so the effective date of the interim reexamination is 9/1/2024 to give the family the required 30-day notice of the increase in total tenant portion.

Scenario C: The Nguyen family had a family member join the household, thereby increasing the annual adjusted income by 10 percent or more due to the new member's Social Security income starting on 8/1/2024. The increased income meets the threshold to require an interim. However, the change in income was not reported to the PHA/MFH Owner until 9/15/2024. The PHA/MFH Owner has a policy requiring a family to report changes in family income within 30 days. Because the family failed to alert the PHA/MFH Owner of the increase in income in accordance with the PHA/MFH Owner's policy, the increased income is effective retroactive to 9/1/2024, the first of the month following the date of the income change.

Scenario D: The Housseini family's current annual reexamination is effective on 2/1/2024. A member of the Housseini family lost their job on 1/2/2024, but the family failed to report the change until 4/5/2024. If the PHA/MFH Owner has a written policy allowing for retroactive rent decreases even when the family does not

report changes timely, the retroactive rent decrease could be applied on 3/1/2024 (the first of the month following the family's most recent previous income examination).

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish policies describing when and under what conditions a family is required to report changes in family income or composition in order to meet the “timely manner” requirement. PHAs/MFH Owners must update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to include these policies and must communicate them clearly to participating families.

PHAs/MFH Owners may adopt a policy to apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner. A retroactive rent decrease may not be applied prior to the later of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination. PHAs/MFH Owners may establish additional criteria to describe the conditions under which retroactive decreases will be applied (e.g., the kinds of extenuating circumstances that may inhibit timely reporting). In all cases of retroactive application, the PHA/MFH Owner must clearly communicate to the family how the retroactive adjustment will affect their responsibility for rent. In the HCV and Moderate Rehabilitation programs, the PHA must also clearly communicate the impact of the retroactive adjustment to the owner.

I.8 Streamlined Income Determination

Regulation: 24 CFR §§ 5.609(c)(2)(i); 5.657(d); 891.105; 891.410(g)(4); 891.610(g)(4); 960.257(c); and 982.516(b)

Summary: HOTMA did not update or otherwise change the streamlined income determination provision codified in the FAST Act¹³ and in HUD's regulations found in 24 CFR §§ 5.657(d), 960.257(c), and 982.516(b); however, PHAs/MFH Owners should be aware that the adjustments of non-fixed income sources at annual reexamination using third-party verification must follow the HOTMA income calculation rules outlined in [Attachment B](#) (Calculating Income) of this notice.

Under current program regulations, PHAs/MFH Owners may elect to apply a streamlined income determination for families receiving fixed income¹⁴ using the methodology below. For any income determined pursuant to a streamlined income determination, a PHA/MFH Owner must obtain third-party verification of all income amounts every 3 years.

When **90 percent or more** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income need not be adjusted and must not be adjusted by a COLA, but PHAs/MFH Owners may choose to adjust sources of non-fixed income by the amount determined on the basis of third-party verification. PHAs/MFH Owners have the discretion to either adjust the non-fixed

¹³ P.L. 114-94.

¹⁴ 24 CFR §§ 5.657(d)(2); 960.257(c)(2); and 982.516(b)(2); 891.410(g)(4); and 891.610(g)(4).

income or carry over the calculation of non-fixed income from the first year to years 2 and 3. Adjustments to non-fixed income must be calculated in accordance with section 14.2 (Annual Reexamination) of this notice.

When **less than 90 percent** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA to each of the family's sources of fixed income. Owners must determine all other income pursuant to section 14.2 (Annual Reexaminations) of this notice.

The table below explains the applicable PHA/MFH Owner action at each point in time in the streamlining cycle.

Table I1: PHA/MFH Owner Action at Point in Time in Streamlining Cycle

Point in Time in Streamlining Cycle	PHA/MFH Owner Action
Year 1	PHA/MFH Owner completes a Move in, Initial Certification (MFH Only) or Annual Reexamination consistent with the regulations on reexaminations.
Years 2 and 3	PHA/MFH Owner completes an Annual Reexamination with the following streamlined income determination for each type of source: • Fixed Income: Apply inflation adjustment factor; PHA/MFH Owner does not collect third-party verification. • Non-fixed income when fixed income is more than 90 percent of unadjusted income: PHA/MFH Owner has discretion to either adjust the income using third-party verification or use the previous year's calculation. • Non-fixed income when fixed income is less than 90 percent of unadjusted income: PHA/MFH Owner must adjust the income using third-party verification. • Assets and Deductions: PHA/MFH Owner completes verification and calculation of assets and deductions.
Year 4	Three-year cycle starts over.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to implement streamlined income determinations under current program regulations.

I.9 Impact of Interim Reexamination Requirements on Family Self-Sufficiency (FSS) Programs

Summary: PHAs/MFH Owners who operate FSS programs should note two effects that the new interim reexamination regulations will have on families participating in their FSS programs.

First, HOTMA requires that interim reexaminations must be conducted: (1) when a family's income decreases by at least 10 percent of their annual adjusted income, or such lower threshold established by a PHA/MFH Owner or by HUD through notice; or (2) when a family's income increases by at least 10 percent of their annual adjusted income or such other amount established by HUD through notice, except in certain circumstances as described earlier in paragraph I.2 (Increases in Adjusted Income) of this notice.

PHAs/MFH Owners may not consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased unless the family has previously received an interim reduction during the same reexamination cycle. Families participating in the FSS program are subject to these interim requirements, therefore their escrow accounts may not grow as their earnings increase throughout the year.

Second, the "Streamlining and Implementation of Economic Growth, Regulatory Relief, and Consumer Protection Act Changes to Family Self-Sufficiency Program" final rule states that the FSS contract of participation (COP) will generally expire 5 years **from the date of the family's first re-certification of income after** the effective date of the FSS COP. The PHA/MFH Owner may not perform an interim reexamination of annual income when enrolling a family in the FSS program unless the family experienced a change in annual adjusted income that meets the threshold for conducting an interim reexamination under the HOTMA final rule. Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of the 5-year contract.

Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised interim reexamination regulations may provide these families the opportunity to use their increased earnings to realize other short- or long-term goals outside of the scope of the FSS program, such as investing in a hobby, going on a vacation with family, purchasing a car, etc.

PHA/MFH Owner Discretion: None.

ATTACHMENT J: TOPIC: VERIFICATION

Regulations

24 CFR §§ 5.216(g)(1); 5.230; 5.230(c)(5)(iii); 5.232; 24 CFR 5.232(c); 5.233; 5.240(c); 5.609(c)(3); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 891.750; 960.259(c); and 982.516(a)(2)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The final rule updated verification of income requirements in 24 CFR §§ 5.230; 5.232; 5.233; 5.609; and 5.659.

Subtopics

J.1 Authorization for the Release of Information (Forms HUD–9886/HUD–9887)

Regulations: 24 CFR §§ 5.230; 5.232; 891.105; 891.410(b)-(c); and 891.610(b)-(c)

Summary: In accordance with the final rule, all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination. After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA/MFH Owner’s compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances^{J1}:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

These consent forms contain provisions authorizing HUD and the PHA/MFH Owner to obtain necessary information for verification of an application or to maintain a family’s assistance, including income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to

^{J1} Any person, regardless of age, who subsequently becomes a family member as the head of household, co-head of household, or spouse, must sign the consent form, in accordance with 24 CFR § 5.230(a).

revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

HUD will publish a new form HUD-9886-A and is updating forms HUD-9887 and HUD-9887-A (Fact Sheet) to conform with the final rule. HUD will include language in the forms allowing PHAs/MFH Owners to obtain financial records from financial institutions whenever the PHA/MFH Owner determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to establish policies around when family members must sign the consent forms when they turn 18 between reexaminations. PHAs/MFH Owners must establish these policies in their ACOPs, Administrative Plans, and Tenant Selection Plans, if requiring family members to sign consent forms at intervals other than at reexamination.

J.2 Revocation of Consent

Regulations: 24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii)

Summary: The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits the PHA/MFH Owner from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program). PHAs/MFH Owners will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA/MFH Owner; however, revoking consent may result in termination of assistance or denial of admission, if the PHA/MFH Owner has a policy that the revocation of consent will result in termination of assistance or denial of admission. When PHAs/MFH Owners do not establish such a policy, the family is required to sign a new consent form by the next reexamination, whichever occurs first, in order to avoid termination of assistance or be reviewed for eligibility for admission. PHAs/MFH Owners must explain to families the consequences, if any, of revoking their consent.

PHAs/MFH Owners must notify their local HUD office of a family's revocation of consent.

PHA/MFH Owner Discretion: PHAs/MFH Owners may decide whether revocation of a family's consent will result in termination of assistance or denial of admission. Such a policy must be included in the PHA/MFH Owner's Administrative Plan, ACOP, or Tenant Selection Plan, as applicable.

J.3 Mandated and Discretionary use of HUD's Enterprise Income Verification (EIV) System

Regulation: 24 CFR § 5.233

Summary: The regulation clarifies that PHAs/MFH Owners must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs/MFH Owners are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHAs/MFH Owners are still required to use EIV in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information at all other times.

Note: HUD intends to update the discrepancy logic for the MFH and Public Housing Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the final rule. PHAs/MFH Owners are not required to investigate discrepancies resulting from the MFH and Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic. HUD will notify PHAs/MFH Owners when the new reports are ready for use.

Table J1 provides guidance on the frequency with which individual EIV reports must be utilized by a PHA/MFH Owner.

Table J1: Mandatory and Discretionary Use of EIV by PHAs/MFH Owners

Report Title	Report Description	Frequency of Use	PHAs/MFH Owners
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.	PHAs only Report does not exist in MFH EIV.
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly	PHAs/MFH Owners
Existing Tenant Search	Identifies applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission	PHAs/MFH Owners
Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly	PHAs/MFH Owners
Failed Verification Report (Failed	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.	Monthly	PHAs/MFH Owners

SSA Identity Test)	*PHAs/MFH Owners that admit families using a self-certification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.		
Identity Verification Report	Identifies tenants that, failed SSA verification, and failed EIV pre-screening.	Monthly	PHAs/MFH Owners
Income Discrepancy Report for MFH Programs	Identifies households where there is an income discrepancy in the wage, unemployment, and SSA benefit information reported in EIV and wage, unemployment, and SSA benefit information reported in TRACS for the period of income used for discrepancy analysis. The report serves as a tool to alert MFH Owners that there may be a discrepancy in the income reported by the tenant during the period of income used for the discrepancy analysis.	Must be used at annual reexamination. MFH Owners may use the report at other intervals, in accordance with the MFH Owner's written EIV policies and procedures. MFH Owners are not required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH Income Discrepancy Report.	MFH Owners

Income Information for PIH Programs Income Report for MFH Programs	Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test. Identifies tenants who: • May not have reported complete and accurate income information; and/or • May be receiving multiple subsidies.	Must be used at annual reexamination; not required at interim reexaminations. PHAs/Owners may use, if desired. PHAs/MFH Owners are not required to use at annual reexamination if they use Safe Harbor verification to determine the family's income. New Admissions: Review new admissions within 120 days after the move-in information is transmitted to HUD to confirm/validate the income reported by the household.^{J2}	PHAs/MFH Owners
Income Validation Tool Report for PIH Programs	Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.	PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition. PHAs may use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan. PHAs are not required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH and Public Housing Income Discrepancy Reports.	PHAs

^{J2} PHAs/MFH Owners must rely on other documents (e.g., pay stubs, benefit award letters, etc.) to verify families' income eligibility before admission.

Multiple Subsidy Report	Identifies tenants who may be receiving rental assistance at more than one location.	At least quarterly	PHAs/MFH Owners
New Hires Report	Identifies tenants who have new employment within the last six months. Report is updated monthly.	PHAs/MFH Owners must review this information at annual reexamination except when the PHA/MFH Owner uses Safe Harbor verification to determine the family's income. PHAs/MFH Owners that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA/MFH Owner's policy is to require an IR for increases in income after an IR decrease, then the PHA/MFH Owner must review the report quarterly after the family's IR decrease.	PHAs/MFH Owners
No Income Reported by HHS or SSA	Identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs/MFH Owners must obtain written, third-party verification of any income reported by the tenant.	As identified in a PHA's ACOP or Administrative Plan or a MFH Owner's written EIV policies and procedures.	PHAs/MFH Owners
No Income Reported on 50059	Identifies households where there is no income listed on the HUD-50059.	As identified in MFH Owner's written EIV policies and procedures.	MFH Owners

Summary Report	Summary of household information from the current, active certification in the TRACS file at the time of the income match.	Must be used at annual reexamination; not required at interim reexaminations. MFH Owners may use the report at other intervals, if desired, as described in the MFH Owner's written EIV policies and procedures.	MFH Owners
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PHA/MFH Owner Discretion: PHAs/MFH Owners may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP and/or Administrative Plan. MFH Owners who choose to use EIV to verify tenant employment and income information at interim reexaminations must establish this policy in their written EIV policies and procedures. Any policy adopted by a PHA/MFH Owner must be applied consistently for all households.

J.4 Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")

Regulation: 24 CFR §§ 5.609(c)(3) and 891.105; 891.410(b)-(c) and (g); and 891.610(b)-(c) and (g)

Summary: PHAs/MFH Owners may determine a family's annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a *Federal Register* notice.

If a PHA/MFH Owner elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the

income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members), and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs/MFH Owners will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR § 5.618.

The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months. **HUD clarifies in this notice that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the PHA/MFH Owner. This satisfies all verification date requirements for Safe Harbor income determinations.**

The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA/MFH Owner:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHA/MFH Owners are permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information **must not** be considered by the PHA/MFH Owner for purposes of the HOTMA Safe Harbor provision. PHAs/MFH Owners are not permitted to mix and match Safe Harbor income determinations and other income verifications.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs/MFH Owners are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

It is anticipated that in many cases tenants will provide the PHA/MFH Owner with the Safe Harbor third-party verification for the purpose of reexamination, rather than the PHA/MFH Owner mailing a verification form to the third party to complete. If the PHA/MFH Owner does not accept Safe Harbor documentation, is unable to obtain Safe Harbor documentation, or if the family disputes the other program's income

determination, the PHA/MFH Owner must calculate the family's annual income using the methods established in § 5.609(c)(1) and (2).

If the PHA/MFH Owner uses a Safe Harbor determination to determine the family's income for an income examination (New Admission/Move Ins, Initial Certification for MFH programs only, Interim Reexamination, or Annual Reexamination), then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the PHA/MFH Owner's transaction. This might mean that a certain source of income was not considered in the family's income, because the other program does not consider the source to be income. For example, if the family begins receiving a new source of income on 2/1/2024 and the PHA/MFH Owner completed an annual reexamination effective 3/1/2024 using a Safe Harbor income determination, then the family does not need to report that change in income. If the family has a change in adjusted income in accordance with HUD's rules that occurs after 3/1/2024, when the Annual Reexamination was effective, then the family must report the change to the PHA/MFH Owner.

Example J1: Acceptable Verification of Safe Harbor

Background: A PHA/MFH Owner decides to implement the Safe Harbor provision, and their policy states that they will accept income determinations from the Supplemental Nutrition Assistance Program (SNAP). At the Smith family's annual reexamination interview, the Smiths provide the reexamination specialist an original print-out from the agency that administers SNAP benefits. The printout reflects the Smith's correct family size of 4, and current household composition, and it states the total amount of the family's earned income. The annual income is \$19,500 (\$812.50 x 24 semi-monthly pay periods). The print-out was dated 30 days prior to the PHA/MFH Owner's request, and the income was determined six months ago.

SNAP Budget Calculation (from State Department of Social Services)

Report Date: 05/17/2024

Head of Household: Smith, Hunter

Home Address: 123 Main Street, USA

Household members:

<u>Last Name</u>	<u>First Name</u>	<u>Date of Birth</u>	<u>Relationship</u>
Smith	Hunter	01/01/1974	Head of Household
Smith	Annabelle	06/18/1976	Spouse
Smith	Lola	05/17/2019	Daughter
Smith	Eric	05/17/2019	Son

Budget Calculation

Monthly Earned Income: \$1,625

Total Unearned Income: \$0

Standard Deduction: \$112.50

Monthly child care/dependent care: \$50

Allowable medical deductions: \$0

Result: The PHA/MFH Owner may use this printout to determine the Smith's annual income for their annual reexamination. The PHA/MFH Owner lists \$19,500 as the annual income for the family's reexamination (\$1,625 monthly earned income + \$0 unearned income x 12 months). The PHA/MFH Owner **does not** need to take any additional steps to verify or calculate gross annual income, including comparing the income determination to EIV data. The PHA would then verify and apply applicable deductions to calculate the family's annual adjusted income.

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to accept or use determinations of income from other federal means-tested forms of assistance.

PHAs/MFH Owners must establish in policy whether and when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations. PHAs/MFH Owners must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination). These policies must be included in the PHA's/MFH Owner's ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

J.5 Verification Hierarchy

Regulation: 24 CFR §§ 5.240(c); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 960.259(c); 982.201(e); and 982.516(a)(2)

Summary: PHAs/MFH Owners are responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Third-party verification is a process by which PHAs/MFH Owners gather information (e.g., about the family's annual income, value of assets, etc.) independently from the source of the income, assets, expenses, or other factors that affect the determination of adjusted income. Third-party verification may be obtained directly from the third party or through the family. PHAs/MFH Owners must document in the tenant file the reason why third-party verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy (see table J2, below) that describes verification documentation from most acceptable to least acceptable. The PHA/MFH Owner must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed (e.g., net family assets that do not exceed \$50,000).

A description of each verification technique and additional guidance follows Table J2.

Table J2: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	Highest PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination, unless using Safe Harbor documentation to verify the family's income

		EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	Written, third-party verification from the source, also known as “tenant-provided verification” OR EIV + Self-Certification PHAs/MFH Owners can choose either option when both are available to verify income. PHAs/MFH Owners must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High • Written, third-party verification is used when tenant disputes EIV-reported employment and income information. • The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	Medium • Use if Level 5 or Level 4 verification is not available or is rejected by the PHA/MFH Owner and when the applicant or tenant is unable to provide acceptable documentation. • May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	Low • Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000. • May be used as highest form of verification when the family reports zero income.

J.5.a Third-Party Verification Descriptions and Guidance

- **Upfront Income Verification (UIV) (Level 6/5):** The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs/MFH Owners as a UIV technique and that all

PHAs/MFH Owners are required to use EIV in its entirety (see paragraph J.3 on Mandated and Discretionary Use of EIV). PHAs/MFH Owners are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to verify tenant-reported income.

- **Written, Third-Party Verification (Level 4):** An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA/MFH Owner. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs/MFH Owners may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

PHAs/MFH Owners are required to obtain a minimum of two current and consecutive pay stubs for determining projected annual income from wages when they are relying on pay stubs for Level 4 documentation. MFH Owners were previously required to collect the most recent four to six weeks of pay stubs to verify employment income. For new income sources or when two pay stubs are not available, the PHA/MFH Owner should determine income based on the information from a traditional written, third-party verification form or the best available information.

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, PHAs/MFH Owners are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts. MFH Owners were previously required to average the balance of six checking account statements to determine the cash value of a checking account.

EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as "EIV + Self-Certification." The PHA/MFH Owner may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of quarters. The EIV Income

report must be pulled within 120 days prior to the reexamination effective date.

- **Written, Third-Party Verification Form (Level 3):** This practice is also known as “traditional third-party verification.” This type of verification is a form developed by the PHA/MFH Owner and used uniformly for all families when needed to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs/MFH Owners send the form directly to the third-party source by mail, fax, or email.

The PHA/MFH Owner may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

- **Oral Third-Party Verification (Level 2):** Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. PHA/MFH Owner staff must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, along with the confirmed information.

This verification method is commonly used when the independent source does not respond to the PHA/MFH Owner’s faxed, mailed, or e-mailed request for information in a reasonable time frame (e.g., 10 business days).

The PHA/MFH Owner may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

- **Non-Third-Party Verification Technique: Self-Certification (Level 1):** The tenant submits a signed statement of reported income and/or expenses to the PHA/MFH Owner. This verification method should be used as a last resort when the PHA/MFH Owner has not been successful in obtaining information via all other required verification techniques. When the PHA/MFH Owner relies on self-certification to verify income or expenses, the PHA/MFH Owner must document in the tenant file why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

Sample language to use in a self-certification: “I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)”

J.6 Verification of Social Security Number (SSN)

Regulation: 24 CFR § 5.216(g)(1) 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g)

Summary: It has become increasingly difficult for applicants to meet HUD's SSN disclosure requirements, particularly for those individuals experiencing homelessness. To help protect individuals' privacy, many federal, state, and local agencies no longer print an individual's SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation in order to obtain a replacement Social Security card.

HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR § 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD. PHAs/MFH Owners must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA/MFH has exhausted all other attempts to obtain the required documentation. HUD has provided similar flexibility to PHAs through the CARES Act waivers and for Emergency Housing Vouchers.

HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA/MFH Owner has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual:

Self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

If verifying an individual's SSN using this method, the PHA/MFH Owner must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA/MFH Owner must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

J.7 Verification of Excluded Income

To reduce administrative burdens on PHAs/MFH Owners, HUD is providing guidance and clarification on the requirements for verifying excluded income.

For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA/MFH Owner **is not** required to:

- Verify the income using third-party verification;

- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD-50058/HUD-50059.

PHAs/MFH Owners may accept an applicant or participant's self-certification as verification of excluded income. The PHA/MFH Owner's application and reexamination questionnaire documentation may serve as the self-certification of excluded income. PHAs/MFH Owners have the option of verifying the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion.

Examples of excluded income categories that are verifiable through applicant or participant self-certification include:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income of a live-in aide. For a complete list of income exclusions, see 24 CFR § 5.609(b).

An income source that is partially excluded, for example, earnings in excess of \$480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD-50058/HUD-50059.

J.8 Zero Income Procedures

PHAs/MFH Owners may accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to verify zero reported income. HUD does not require that such self-certification be notarized. PHAs/MFH Owners are reminded that they must verify families' income in EIV within 120 days after admission, except where the PHA/MFH Owner used Safe Harbor documentation to verify a family's income.

PHAs/MFH Owners have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero income worksheet at admission or periodically after admission to determine if they have any sources of unreported income, or searching an upfront income verification source (see Level 5) for unreported income, such as a public benefits database to which the PHA/MFH Owner has access. These procedures are meant to avoid improper payments and the need for repayment agreements.

In calculating annual income from a zero income worksheet, PHAs/MFH Owners must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family (24 CFR § 5.609(b)(24)(vi)). PHAs/MFH Owners perform an interim reexamination only due to an increase in the family's adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)).

PHAs/MFH Owners that establish zero income procedures must update their local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim

reexamination should no longer be considered zero income even though the family's income is not reflected on the form HUD-50058/HUD-50059.

APPENDIX: SAMPLE NET FAMILY ASSET SELF-CERTIFICATION FORM

Self-Certification of Net Family Assets and Real Property

This form will help determine your eligibility for the program under the asset limitation. Your housing provider may also use this form to help determine your income from assets if your total net family assets do not exceed \$50,000 (adjusted annually for inflation). Third-party verification is required when net family assets exceed \$50,000, and every three years.

Real Property (for example: land, house, condominium, commercial building, etc.).

1. Do you or any member of your assisted family have an ownership interest in any real property?

☐ Yes

☐ No

If the answer to question #1 is No, skip to question #6.

2. If yes, please check off if any of the following statements are true about the property:

- _____ The property does not meet the disability-related needs for all members of the family (for example, physical accessibility requirements, accessible common areas, disability-related need for additional bedrooms, or closeness to accessible transportation/medical facilities/other supportive services, etc.);
- _____ The property is not sufficient for the size of the family;
- _____ The property is located in an area that is a hardship (for instance, far from a family member's place of work or school);
- _____ The property is not safe to live in because of physical condition; or
- _____ The property is not a property where a family can live based on the State or local laws where the property is located.

If you checked off any of the above statements, you will need to provide additional documentation to demonstrate that the statement is true.

3. If you did not check off any of the statements in question 2, do you or any member of your assisted family have the legal authority to sell the property?

☐ Yes

☐ No

4. There is an exemption from the limitation on assistance for families that have an ownership interest in real property for victims of domestic violence, dating violence, sexual assault, and stalking. If you or any member of the assisted family is a victim, you can claim

this exemption from the real property limitation. Please check this box if you think you may be eligible for this exemption.

☐ I believe I may be eligible for this exemption, and I would like more information from the PHA's VAWA Coordinator or Executive Director, or the MFH property's Owner/Agent. (If you do not understand this exemption or how to exercise your rights, you can speak to these individuals for more information.)

5. What is the estimated cash value of the property (market value minus mortgage/other loans and costs to sell. Enter \$0 if market value of property is less than outstanding debt (i.e., mortgage is upside down/underwater)?

\$

Other Assets (for example: accounts, luxury items that are not necessary)

6. How much income do you expect your family to earn from your total family assets in the next year? This includes interest, dividends, and other earnings, e.g., anything for which you receive Form 1099 tax documents. Actual income (interest, dividends, etc.) from excluded assets is included as income.

\$

7. Do you or any member of your assisted family have other assets (including checking accounts, savings accounts, certificates of deposits (CDs), stocks, bonds, luxury items, recreational vehicles, etc.) that total more than \$50,000 (adjusted annually for inflation)?

☐ Yes

☐ No

Assets to consider	Assets always excluded
• Checking and savings accounts • Stocks, bonds, mutual funds • Luxury items or items that are not necessary, e.g., recreational boat, vehicles not used for regular transportation • Assets disposed of for less than fair market value; for example, if you gave away a house to someone out outside of the assisted family within the past two years, the value of the house would be considered an asset (except as determined by certain divorce or separation settlements)	• Retirement accounts (e.g., IRAs, 401k, 403b) • Educational savings accounts (Section 529, Section 530, Coverdell ESA, etc.) • ABLE accounts • Non-revocable trusts • Necessary items of personal property (items essential for the maintenance, use, and occupancy of a home or necessary for employment, education, cultural expression, or health and wellness) • Federal tax refunds (must be subtracted from total net family assets)

I/We, the undersigned, certify that the information provided here is true and correct to the best of my knowledge and recollection. Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)

Head of Household Signature

Date



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

Office Directors of Public Housing;
Regional Directors; Public Housing
Agencies

NOTICE PIH 2024-38

Issued: December 17, 2024

Expires: This notice remains in effect until
amended, superseded or rescinded.

Cross References: Notice PIH 2023-27, Notice H
2024-09

Subject: Housing Opportunity Through Modernization Act (HOTMA) Sections 102 and 104: Updated Guidance to Public Housing Agencies (PHAs) on Compliance

I. Purpose

The purpose of this Notice is to identify which income and assets provisions from Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) that Public Housing Agencies (PHAs) must comply with no later than July 1, 2025.¹

Section 6.1 of Notice PIH 2023-27 previously established a compliance deadline of January 1, 2025, by which PHAs had to fully comply with the HOTMA final rule.² This Notice supersedes, in part, Section 6.1 of Notice PIH 2023-27. This Notice indicates that for the specific HOTMA provisions identified below, the new deadline for PHA compliance is July 1, 2025. For all other provisions that are not identified in this Notice, HUD will not enforce PHA compliance by January 1, 2025.

II. Background

HOTMA was signed into law on July 29, 2016 (Pub. L. 114-201). The final rule implementing Sections 102 and 104 of HOTMA (88 FR 9600) became effective January 1, 2024. HUD initially provided, in the HOTMA Section 102 and 104 Implementation

¹ References to form HUD-50058 in this notice take on the meaning of form HUD-50058 MTW for MTW PHAs and form HUD-50058 MTW Expansion for MTW Expansion PHAs.

² [Housing Opportunity Through Modernization Act of 2016; Implementation of Sections 102, 103, and 104](#). 88 Fed. Reg., 9,600. February 14, 2023.

Guidance (Notice PIH 2023-27),³ that PHAs could set a compliance date between January 1, 2024, and January 1, 2025, based on when the PHA's software could submit to HIP.

Due to further IT system development delays, HUD will not enforce compliance with all Section 102 and 104 income and assets provisions by January 1, 2025.⁴ PHAs will not have software capable of submitting HOTMA-compliant forms to HIP by January 1, 2025, because HIP development has not been completed. The IMS/PIC legacy system reflects pre-HOTMA requirements in many places. When the timeline for completion of HIP development and PHA migration is known, HUD will issue further guidance on the deadline to comply with any outstanding provisions of Sections 102 and 104. HUD will provide regular updates on the progress of systems development.

III. Applicability

This notice applies to PHAs administering Office of Public and Indian Housing (PIH) programs (HCV [including Project-Based Vouchers], Moderate Rehabilitation, Moderate Rehabilitation SRO, Public Housing), including PHAs that participate in the Moving to Work (MTW) Demonstration.⁵

IV. PHA Compliance with HOTMA Sections 102 and 104

A. HUD Enforcement Prior to July 1, 2025

1. Earned Income Disregard

Regulation: 24 CFR 5.611

PHAs must have ceased enrolling families into the Earned Income Disregard (EID) as of December 31, 2023. EID will not apply to any family that was not eligible for and already participating in the disregard as of December 31, 2023. Please refer to Notice PIH 2023-27, Attachment G, Section G.20, for guidance on the end of EID.⁶

2. Form HUD-9886-A

Regulation: 24 CFR 5.230, 5.232

PIH communicated by letter on February 23, 2024, that PHAs may begin having families sign the new Form HUD-9886-A (Authorization for the Release of Information/Privacy Act Notice) on January 1, 2024. The Form HUD-9886-A instructs readers to use the HUD-9886-A for reexaminations effective on or after January 1, 2024, and to use Form HUD-9886 for reexaminations effective prior to January 1,

³ Notice PIH 2023-27, [Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#). Re-issued February 2, 2024.

⁴ PIH Message to Public Housing Agencies. "[HOTMA 102/104 Income and Assets Rule Compliance](#)." September 18, 2024.

⁵ The contents of this notice apply to PHAs participating in the MTW program except where an approved MTW waiver is in place. For example, MTW PHAs that have previously developed a different method of measuring prior-year income as part of the Rent Reform Demonstration or Stepped and Tiered Rent Demonstration may continue to use those methods after this notice takes effect.

⁶ PIH Message to Public Housing Agencies. "[Updates on HIP and HOTMA Implementation](#)." February 23, 2024.

2024. Please refer to Notice PIH 2023-27, Attachment J, Section J.1 for guidance on the authorization for release of information form. Form HUD-9886 expires on January 31, 2025, at which point the Form HUD-9886-A will be the only approved version of the authorization for release of information form. PHAs must transition to using the Form HUD-9886-A by February 1, 2025.

PHAs that have begun use of the Form HUD-9886-A must also start implementing policies related to the revocation of consent. Please refer to Notice PIH 2023-27, Attachment J for guidance on the new authorization for the release of information form (HUD-9886-A) and the family's ability to revoke consent. Section J.1 provides guidance on the use of the Form HUD-9886-A. Notice PIH 2023-27, Attachment J, Section J.2 provides guidance on revocation of consent.

B. HUD Enforcement Beginning July 1, 2025

This Notice identifies additional provisions in Sections 102 and 104 of HOTMA that PHAs must comply with no later than July 1, 2025. HUD has determined that PHAs can comply with these specific provisions while they remain in IMS/PIC, prior to the availability of HOTMA-compliant HUD-50058 forms in HIP. All transactions with an effective date on or after July 1, 2025, must be processed using these HOTMA policies. Since the reexamination process typically starts 90-120 days prior to the effective date of the transaction, this means that PHAs may need to utilize such policies in reexaminations as soon as March 3, 2025.

This compliance deadline does not apply to other provisions, which require systems development. For provisions not on this list, HUD either identified technical obstacles in IMS/PIC that PHAs would encounter when trying to report HUD-50058 transactions that used such provisions, or the provision is closely linked to other HOTMA provisions that have similar obstacles. For example, HOTMA raised the Elderly/Disabled Family deduction to \$525 effective January 1, 2024, but PHAs in IMS/PIC are unable to comply with this change, because they are unable to submit transactions at the higher amount.

PHAs may immediately begin complying with HOTMA provisions identified below, once they have made any necessary updates to their materials and processes. HUD encourages PHAs to consult with their software vendors prior to beginning to implement these provisions, to ensure HUD-50058 transactions are submitted successfully.

1. Income Exclusions

Regulation: 24 CFR 5.609(b)

PHAs may immediately begin to implement income exclusions in 24 CFR 5.609(b), on all income examinations including at new admissions, annual, or interim reexaminations. For all income examinations with an effective date on or after July 1, 2025, PHAs must utilize the list of income exclusions. Please note that Notice PIH 2023-27 does not reference all income exclusions, but rather provides guidance on

new or revised income exclusions. For the full list of income exclusions, please refer to the regulations at 24 CFR 5.609(b).

Please refer to Notice PIH 2023-27, Attachment G, for guidance on the following new and revised exclusions:

- Nonrecurring Income (24 CFR 5.609(b)(24))
- Lump-Sum Additions to Net Family Assets (24 CFR 5.609(b)(24)(vii))
- Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account (24 CFR 5.609(b)(27))
- Income of Live-in Aides, Foster Children, and Foster Adults (24 CFR 5.609(b)(8))
- Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments (24 CFR 5.609(b)(4))
- Insurance Payments or Settlements (24 CFR 5.609(b)(5))
- Civil Action Recoveries or Settlements (24 CFR 5.609(b)(7))
- Earned Income of Dependent Full-Time Students (24 CFR 5.609(b)(14))
- Adoption Assistance Payments (24 CFR 5.609(b)(15))
- Veterans Regular Aid and Attendance (24 CFR 5.609(b)(17))
- Home-Based Care Payments for a Family Member(s) with one or more Disabilities (24 CFR 5.609(b)(19))
- Loan Proceeds (24 CFR 5.609(b)(20))
- Certain Payments Received by Tribal Members (24 CFR 5.609(b)(21))
- Exclusions from Other Federal Statutes (24 CFR 5.609(b)(22))
- Replacement Housing Gap Payments (24 CFR 5.609(b)(23))
- Student Financial Assistance (24 CFR 5.609(b)(9))
- Achieving a Better Life Experience (ABLE) Accounts (24 CFR 5.609(b)(22))
- Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts, and "Baby Bond" Accounts (24 CFR 5.609(b)(10))
- Gross Income from Self-Employment or Operation of a Business (24 CFR 5.609(b)(24) and 5.609(b)(28))
- Civil Rights Settlements or Judgments (24 CFR 5.609(b)(25))

Please refer to Notice PIH 2023-27, Attachment F, Section F.4.d.iii for guidance on the income exclusion at 24 CFR 5.609(b)(2):

- Certain distributions of irrevocable trusts or revocable trusts outside the control of the family or household (including most Special Needs Trusts) (24 CFR 5.609(b)(2))

Note that adoption of some new or revised definitions below may affect the calculation for certain income exclusions. For example, the revised definition of the term "health and medical care expenses" may affect the income exclusion at 24 CFR 5.609(b)(6):

- Amounts for or in reimbursement of the cost of health and medical care expenses (24 CFR 5.609(b)(6))

2. Definitions

Regulation: 24 CFR 5.100, 5.403, 5.603

PHAs may immediately begin to use the following definitions. For all transactions with an effective date on or after July 1, 2025, PHAs must use these definitions.

- “Earned income” and “unearned income” (24 CFR 5.100). Please refer to Notice PIH 2023-27, Attachment F, Sections F.2 and F.3 for guidance on these definitions.
- “Family” (24 CFR 5.403). Please refer to Notice PIH 2023-27, Attachment E, Section E.1 for guidance on the definition of family.
- “Day laborer,” “independent contractor,” and “seasonal worker” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment F, Sections F.2.a, F.2.b, and F.2.c for guidance on these definitions.
- “Dependent” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment E, Section E.2 for guidance on the revision to this definition.
- “Foster child” and “foster adult” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment E, Section E.2 for guidance on these definitions. **Note:** The definitions of “foster child” and “foster adult” were added to 24 CFR 982.4 as part of a final rule published on May 7, 2024 (“Housing Opportunity Through Modernization Act of 2016-Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes,” 89 FR 38224), and this rule did not have a delayed compliance date.⁷ For the Housing Choice Voucher program [including Project-Based Vouchers], PHAs must already be implementing the definition of “foster child” and “foster adult”.
- “Health and medical care expenses” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment C, Section C.3.b for guidance on this definition.
- “Minor” (24 CFR 5.603).

3. De Minimis Errors

Regulation: 24 CFR 5.609(c)(4); 882.515(f); 882.808(i)(5); 960.257(f); and 982.516(f)

Please refer to Notice PIH 2023-27, Attachment B, Section B.4 for guidance on de minimis errors, which includes guidance on when PHAs must take corrective action to credit or repay a family.

⁷ [Housing Opportunity Through Modernization Act of 2016 – Housing Choice Voucher \(HCV\) and Project-Based Voucher Implementation; Additional Streamlining Changes](#), 89 Fed. Reg., 38,224, May 7, 2024.

C. Summary of Compliance Requirements

The table below summarizes the provisions of Sections 102 and 104 of HOTMA identified in this Notice and their respective compliance deadlines.

Provisions	Required Compliance Date
Ceasing Enrollment into Earned Income Disregard (EID)	January 1, 2024
Use of HUD-9886-A	No later than February 1, 2025
Income Exclusions	No later than July 1, 2025
Definitions	No later than July 1, 2025
De Minimis Errors	No later than July 1, 2025

HUD will not be enforcing compliance with any other provision by January 1, 2025.⁸ HUD will issue further guidance on the compliance deadline for all other provisions, when there is more information about when PHAs will be able to submit HOTMA-compliant HUD-50058 forms in HIP.

V. Further Information

Questions concerning this notice should be submitted by email to the following Office of Public Housing and Voucher Programs mailbox: HOTMAQuestions@hud.gov.



Richard J. Monocchio
Principal Deputy Assistant Secretary
Public and Indian Housing

⁸ HUD has also determined that PHAs can implement two discretionary provisions of Sections 102 and 104 of HOTMA while they remain in IMS/PIC, prior to the HOTMA-compliant HUD-50058 forms becoming available in HIP. As previously noted, PHAs may start implementing the “Safe Harbor” income verification option of the HOTMA final rule. Please refer to Notice PIH 2023-27, Attachment J, Section J.4 for guidance on Safe Harbor income verification. If a PHA chooses to adopt this policy while in IMS/PIC, they must list the annual income from the other program’s determination in Section 7 of the HUD-50058 for the Head of Household using the “Other Non-Wage Sources” income code. Additionally, PHAs may choose not to use the Enterprise Income Verification (EIV) system to verify tenant employment and income information during an interim reexamination of family composition and income. Please refer to Notice PIH 2023-27, Attachment J, Section J.3, for guidance on mandated and discretionary use of the EIV system. PHAs may choose to continue to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING—
FEDERAL HOUSING COMMISSIONER

Special Attention of:

All Multifamily Regional Center Directors
All Multifamily Satellite Office Directors
All Multifamily Asset Management Division
Directors
All Multifamily Operations Officers
All Multifamily Field Counsel
All Contract Administrators
All Multifamily Project Owners

Notice H-2025-03

Issued: 5/29/2025

Expires: This Notice remains in effect
until amended, superseded, or rescinded

SUBJECT: Extension of Mandatory Compliance Date: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

I. Purpose

The purpose of this Notice is to extend the HOTMA final rule compliance date to January 1, 2026. This Notice supersedes Notice H 2024-09, which extended the date by which Owners must comply fully with Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) final rule until July 1, 2025.

II. Background

Section 6.2 of Notice H 2023-10 requires Multifamily Housing Owners to be in full compliance with the HOTMA final rule and HUD's updated income and asset documentation requirements for income certifications having an effective date on or after January 1, 2025. Thereafter, HUD published Notice H 2024-09 that extended the January 1, 2025 deadline to July 1, 2025. This Notice however extends the compliance date to January 1, 2026. The requirement applies to Owners participating in the programs listed in section 4 (Applicability) of Notice H 2023-10.

III. Revision of Date

The compliance dates stated in section 6.2 of Notice H 2023-10 and Notice H 2024-09 are extended to January 1, 2026.

IV. Further Information

If you have questions about this Notice, please send them to MFH_HOTMA@hud.gov.

Frank Cassidy
Principal Deputy Assistant Secretary for
Housing



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Public Housing Field Office Directors
Public Housing Agency Directors
Public Housing Hub Office Directors
Multifamily Regional Center Directors
Rural Services (RHS) Directors
Supervisory Housing Project Managers
Housing Project Managers
Contract Administrators
Multifamily Owners and Management Agents

NOTICE PIH 2019-09
NOTICE H-2019-06

Issued: April 26, 2019

This notice remains in effect until amended, superseded or rescinded.

Cross Reference: 24 CFR 5.609; ABLE Act of 2014

Title: Treatment of ABLE Accounts in HUD-Assisted Programs

Purpose: This notice provides guidance regarding the federally mandated exclusion of ABLE accounts from the calculation of income and assets, as required under the Achieving a Better Life Experience Act of 2014 (ABLE Act). Per the mandate of the ABLE Act, for the purpose of determining eligibility and continued occupancy, HUD will disregard amounts in the designated beneficiary's/individual's ABLE account.

Background: The Achieving Better Life Experience (ABLE) Act (P.L. 113-295.) was signed into law on December 19, 2014. The ABLE Act allows States to establish and maintain a program under which contributions may be made to a tax-advantaged ABLE savings account to provide for the qualified disability expenses of the designated beneficiary of the account. The designated beneficiary must be a person with disabilities, whose disability began prior to his or her 26th birthday and who meets the statutory eligibility requirements.

Applicability: This notice applies to the following programs:

1. Housing Choice Voucher Program, including all special voucher types
2. Public Housing
3. Project-based Section 8
 - New Construction
 - State Agency Financed
 - Substantial Rehabilitation
 - Section 202/8
 - Rural Housing Services (RHS) Section 515/8
 - Loan Management Set-Aside (LMSA)
 - Property Disposition Set-Aside (PDSA)
 - Rental Assistance Demonstration Project Based Rental Assistance (RAD/PBRA)
4. Section 202/162 Project Assistance Contract (PAC)
5. Section 202 Project Rental Assistance Contract (PRAC)
6. Section 202 Senior Preservation Rental Assistance Contracts (SPRAC)
7. Section 811 PRAC

8. Section 811 Project Rental Assistance (PRA)
9. Section 236 (including RAP)
10. Section 221(d)(3)/(d)(5) Below Market Interest Rate (BMIR)

Definition of Terms: This Section includes definitions of terms referred to in this notice.

- A. *ABLE account* means an account established for the benefit of an eligible individual, maintained under a qualified ABLE program.
- B. *Contribution* is the deposit of funds into an ABLE account.
- C. *Designated beneficiary* is the eligible individual who established and owns the ABLE account.
- D. *Distribution* is the withdrawal or issuance of funds from an ABLE account.

Treatment of ABLE account in HUD programs: Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded/disregarded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs.

Individuals have to be income eligible to receive assistance under HUD programs. Per 24 CFR 5.609, annual income is defined as the anticipated total income from all sources received by every family member which are not specifically excluded in 24 CFR 5.609(c). The exclusion found at 24 CFR 5.609(c)(17) instructs PHAs and owners to exclude from income all amounts that are specifically excluded by other Federal statute when the statute is applicable to HUD programs. Given that the ABLE Act creates a federally mandated exclusion for ABLE accounts applicable to HUD programs, in determining a family's income, HUD will exclude amounts in the individual's ABLE account pursuant to 24 CFR 5.609(c)(17). The entire value of the individual's ABLE account will be excluded from the household's assets. This means actual or imputed interest on the ABLE account balance will not be counted as income. Distributions from the ABLE account are also not considered income. All wage income received, regardless of which account the money is paid to, is included as income.

For example:

1. Contributions made by the designated beneficiary

Pursuant to 24 CFR 5.609(a), all amounts received by the designated beneficiary are counted as income, unless they fall under one of the enumerated exclusions under 5.609(c) or are federally mandated, as with distributions from ABLE accounts.

If the beneficiary has a portion of his/her wages directly deposited into his/her ABLE account, then all wage income received, regardless of which account the money is paid to, is included as income. *Pre-tax employer contributions to an ABLE account (that are not deducted from wages) are excluded.* If the designated beneficiary subsequently deposits any amount previously included as income into his/her ABLE account, that deposited amount must not be included in the household's asset calculation or counted as income again when the beneficiary receives a distribution from the account.

2. Contributions made by others directly into the ABLE account

If someone other than the designated beneficiary contributes directly to the ABLE account, that contribution will not be counted as income to the designated beneficiary.

If a relative provides a recurring gift of \$100 per month directly to the beneficiary, the recurring gift would be counted as income. If a relative deposits the \$100 recurring monthly gift directly into the

ABLE account, then it will not be counted as income. Note: Any person can contribute to an ABLE account. However, the Internal Revenue Service (IRS) limits the total annual contributions that any ABLE account can receive from all sources for a given calendar year.

3. Rollovers from existing ABLE accounts

Rollovers from existing ABLE accounts to the designated beneficiary's ABLE account are not counted as income to the designated beneficiary.

Verification: In accordance with program requirements at 24 CFR 5.240(c), PHAs and owners should verify the amount held in the ABLE account. PHAs and owners should develop a policy and procedure for verifying ABLE accounts that obtains the following information:

- the name of the designated beneficiary; and
- the State ABLE program administering the account to verify that the account qualifies as an ABLE account.

Contact Information: If you have any questions regarding this notice, please contact Annecia Durr (Office of Housing) at Annecia.Durr@hud.gov or 202-402-2618, or Becky Primeaux (Office of Public and Indian Housing) at Becky.L.Primeaux@hud.gov or 202-402-6050.

Paperwork Reduction Act: The information collection requirements referred to in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control numbers 2577-0169 and 2502-0204.

_____/s/
R. Hunter Kurtz
Principal Deputy Assistant Secretary
for Public and Indian Housing

_____/s/
Brian D. Montgomery
Assistant Secretary for Housing –
Federal Housing Commissioner

Public Housing and Housing Choice Voucher Program

List of Discretionary Policies to Implement HOTMA

This chart is meant to help PHAs think about the policies they need to set in their Admissions and Continued Occupancy Plans (ACOP) and/or Administrative Plans (Admin Plan). The information provided here is subject to change, pending the final PIH Notice implementing HOTMA 102 and 104.

Topic	Related HOTMA Policy Background	HOTMA Discretionary Policies These are policy choices that PHAs need to make and include in their ACOPs or Admin Plans.
Asset Limitation for New Admissions (24 CFR § 5.618)	• PHAs must deny admission of an applicant family for the following: 1. Net family assets that exceed \$100,000 (adjusted annually for inflation); and/or 2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence. • PHAs must include this admission and termination/eviction policy in their ACOPs or Admin Plans.	No discretion.

Asset Limitation for Interim and Annual Reexaminations (24 CFR § 5.618)	• PHAs must initiate eviction (Public Housing) or termination (Section 8 HCV) of a family's assistance no later than six months after the effective date of an annual or interim reexamination for the following: 1. Net family assets that exceed \$100,000 (adjusted annually for inflation); and/or 2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.	<u>Non-enforcement policy & cure period:</u> • PHAs may choose to establish a written policy to not enforce the asset limitation for all families, for up to six months after the effective date of a family's annual or interim reexamination. Families are given the opportunity to cure noncompliance with the asset limitation during this period. • Non-enforcement policies must address the timeframe for curing non-compliance (e.g., PHA may choose to adopt local policies to allow any number of months, up to six months, to cure). <u>Asset limitation exception policy & cure period (interim/annual reexamination only):</u> • PHAs may also establish in written policy exceptions to the asset limitation based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. • Excepted families are given the opportunity to cure noncompliance with the asset limitation during this period (e.g., PHA may choose to adopt local policies to allow any number of months, up to six months, to cure).
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		Exception policies <u>must</u> conform with applicable fair housing statutes and regulations. Exception policies must address which families are excepted and the timeframe for curing compliance. Note: PHAs may establish <u>both</u> non-enforcement and exception policies. PHAs must include this termination/eviction policy in their ACOP or Admin Plans. This policy must indicate when the PHA will initiate termination or eviction proceedings after participant families are determined to be out of compliance. The above discretion is <u>not</u> applicable to eligibility determinations for new admissions.
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Self-Certification – Real Property Ownership (24 CFR § 5.618(b)(2))	• PHAs must determine whether a family has present ownership in real property for the purposes of determining whether the family is compliant with the asset limitation provision. • If a family declares present ownership in real property, PHAs must seek third-party verification of the following, as applicable: ○ Whether or not the family has the legal right to reside in the property; and ○ Whether or not the family has the effective legal authority to sell the property; and ○ Whether or not the property is suitable for occupancy by the family as a residence.	• PHAs may rely upon a self-certification from the family at both admission and reexamination stating that they do not have any present ownership interest in any real property. • PHAs must include in their ACOPs or Admin Plans whether they will accept a family’s self-certification of present ownership of real property. In the case of a family member who is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with the confidentiality requirements under 5.2007. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under § 5.2007 apply.
Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (adjusted annually for inflation) (24 CFR §§ 5.603; 5.609; 5.618; 882.515(a); 882.808(i)(1);	• PHAs must determine if the family’s total net family assets are equal to or less than \$50,000, and they must determine the actual income earned from the asset(s).	• PHAs may accept a family’s self-certification of net family assets equal to or less than \$50,000 (adjusted annually for inflation) and anticipated income earned from assets without taking additional steps to verify accuracy, at admission and at reexamination. • Accepting a family’s self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at

960.259(c)(2); 982.516(a)(3))		admission, PHAs are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance. • PHAs who choose to accept self-certification of net family assets equal to or less than \$50,000 (adjusted annually for inflation) at reexamination are required to fully verify net family assets every three years (882.515(a); 882,808(i)(1); 960.259(c)(2); 982.516(a)(3)). • PHAs who choose not to accept a family's self-certification must verify a family's net assets. • PHAs must include in their ACOPs or Admin Plans whether they will accept a family's self-certification of net family assets equal to or less than \$50,000 at admission (only for new admissions effective on or after 1/1/2024) and at reexamination.
Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care &	N/A	• PHAs must develop written policies in their ACOPs or Admin Plans defining what constitutes a hardship for the purposes of the general relief hardship exemption for health and medical care expenses and reasonable attendant care & auxiliary apparatus expenses.

Auxiliary Apparatus Expenses – <u>General Relief</u> (24 CFR § 5.611(c)(2))		• PHAs may, pursuant to their own discretionary policy, extend the hardship relief for one or more additional 90-day periods while the family’s hardship condition continues. • PHAs must state whether they will allow extensions of the 90-day hardship period and the maximum number of 90-day extension periods (if establishing a maximum policy) that a family may receive. Note: PHAs are not limited by HUD to a maximum number of 90-day extensions. PHAs must obtain third-party verification of the hardship or must document in the file the reason that third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship period.
Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care & Auxiliary Apparatus Expenses – <u>Phased-</u>	• All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after January 1, 2024.	N/A

<u>In Relief (24 CFR § 5.611(c)(1))</u>	- Families who receive phased-in relief will have eligible expenses deducted as follows: <u>1st twelve months</u> – in excess of 5% of annual income. <u>2nd twelve months</u> – in excess of 7.5% of annual income. <u>After 24 months</u> – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for General Hardship relief. - Once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.	
Hardship Exemption to Continue Child Care Expense Deduction (24 CFR § 5.611(d))	- PHAs must develop written policies to define what constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the childcare expense hardship exemption. - PHAs must include this policy in their ACOPs or Admin Plans. - PHAs must obtain third-party verification of the family's inability to pay rent or must document in the file with the reason third-party verification was not available. PHAs must attempt to obtain third-party	- PHAs must develop written policies to define what constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the childcare expense hardship exemption. - PHAs must include this policy in their ACOPs or Admin Plans. - PHAs may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. - PHAs must include in their ACOPs or Admin Plans whether they will allow extensions of the 90-day

	verification prior to the end of the 90-day period.	hardship period and the maximum number of 90-day extension periods (if establishing a maximum policy) that a family may receive. Note: PHAs are not limited by HUD to a maximum number of 90-day extensions
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Additional (Permissive) Deductions – Public Housing, Housing Choice Voucher, and Moderate Rehabilitation/SRO Only (24 CFR § 5.611(b)(1))	N/A	• Program regulations do not specify which types of permissive deductions are allowable in the HCV, Public Housing, or Moderate Rehabilitation/SRO programs. • A PHA that chooses to adopt an additional permissive deduction(s) from annual income for the HCV and/or Moderate Rehabilitation/SRO, or Public Housing programs must include written policies in their ACOPs or Admin Plans. Note: A PHA that adopts such deductions for the Public Housing program will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions. For the HCV and Moderate Rehabilitation/SRO programs, a PHA must have sufficient funding to cover the increased housing assistance payments cost of the deductions because permissive deductions will be excluded from the renewal calculation.
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De Minimis Errors in Income Determinations (24 CFR §§ 5.609(c)(4); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5))	• PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent because of de minimis errors in calculating family income. • PHAs may not implement local policies to require families to repay in instances resulting in a family being undercharged for rent where the PHA miscalculated the family's income.	• PHAs must include in their ACOPs or Admin Plans how they will repay or credit a family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the PHA's de minimis error in income determination.
Interim Reexaminations - Decreases in Adjusted Income (24 CFR §§ 960.257(b)(2); 982.516(c)(2); 882.515(b)(2); 891.410)	• PHAs are required by HUD to process interim reexaminations for <i>all</i> decreases in adjusted income when a family member permanently moves out of the unit. • PHAs <u>are not permitted</u> to establish a dollar figure threshold amount instead of a percentage threshold less than ten percent.	• PHAs may decline to conduct an interim reexamination of family income if the PHA estimates that the family's annual adjusted income will decrease by an amount that is less than ten percent of the family's annual adjusted income, or such lower threshold established by the PHA. • PHAs must identify in their ACOPS or Admin Plans the percentage threshold they will use for conducting interim reexamination for decreases in a family's adjusted income. • PHAs may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5% may be rounded up to 10%).

Interim Reexaminations - Increases in Adjusted Income (24 CFR §§ 960.257(b)(3); 982.516(c)(3); 882.515(b)(3))	• PHAs must conduct an interim reexamination of family income when the they become aware that the family's annual adjusted income has changed by an amount that would result in an estimated increase of ten percent or more in annual adjusted income or another amount established through a HUD notice, except PHAs may not consider any increases in <i>earned</i> income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle. • PHAs may not establish a different threshold to conduct interim reexaminations for increases in adjusted income.	• PHAs may choose not to conduct an interim reexamination if a family reports an increase in income within three months of their next annual reexamination effective date. • PHAs may choose not to include <i>earned</i> income increases in determining whether the 10% threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination. • PHAs must describe these policies in their ACOPs or Admin Plans.
Interim Reexaminations - Reporting Changes & Effective Date (24 CFR §§ 960.257(b)(4); 982.516(d);	• Families must report household composition changes and changes to adjusted income consistent with HOTMA requirements; however, PHAs determine the timeframe in which reporting must occur to be considered "timely."	• PHAs must develop policies that describe when and under what conditions families must report changes in household composition and adjusted income consistent with HUD's requirements for processing an interim reexamination or other non-interim reexamination transaction. • PHAs have the discretion to develop specific reporting policies that describe which changes

882.515(b)(1) - (4); 882.808(i)(4); 891.410)	• If the PHA has adopted a retroactive rent decrease policy, it may not be applied prior to the later of: ○ The 1st of the month following the date of the actual decrease in income; or ○ The 1st of the month following the most recent previous income examination. Note: The PHA must clearly communicate to the family and owner, if applicable, how a retroactive adjustment will affect the family's responsibility for rent.	must be reported and the timeline for reporting the change to be considered timely. • PHAs may adopt a policy to apply rent decreases retroactively and establish additional criteria to describe the conditions under which retroactive decreases will be applied e.g., extenuating circumstances that may inhibit timely reporting. • PHAs must describe these policies in their ACOPs or Admin Plans.
Revocation of Consent Form (Form HUD-9886)¹ (24 CFR §§ 5.230(c)(5)(iii) and 24 CFR 5.232(c))	• The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family provides written notification to the PHA to revoke consent. • Families have the right to revoke consent by notice to the PHA; however, revoking consent can result in termination or denial of assistance if the PHA has established an admission and occupancy policy that the	• PHAs may establish in written policy that revocation of consent will result in termination of assistance or denial of admission. • When PHAs do not establish a policy such that revoking consent will result in termination of assistance, participant families will be required to sign a new consent form by the next regularly scheduled reexamination or interim reexamination, whichever occurs first.

¹ Revocation of consent or refusal to sign the consent form prohibits the PHA from requesting and accessing income information and financial records, including pulling any EIV reports and using EIV data to verify income.

	revocation of consent will result in termination of assistance or denial of admission. • PHAs may not process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s). • PHAs must explain to families the consequences, if any, of revoking their consent. • PHAs <u>must</u> notify their local HUD office when an applicant or participant family member revokes their consent. Note: Data matches between HUD and other agencies will continue to automatically occur, when consent is revoked, if the family is not terminated from the program.	• PHAs may establish policies to deny admission but allow existing participant families to continue to receive assistance after revoking their consent until the next interim or annual reexamination, whichever is sooner.
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Determination of Family Income Using Other Means Tested Public Assistance, i.e., “Safe Harbor” (24 CFR §§ 5.609(c)(3) and 891.105)	• PHAs may determine the family’s income prior to the application of any deductions based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance: ○ The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.). ○ Medicaid (42 U.S.C. 1396 et seq.). ○ The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.). ○ The Earned Income Tax Credit (26 U.S.C. 32). ○ The Low-Income Housing Tax Credit (26 U.S.C. 42). ○ The Special Supplemental Nutrition for Woman, Infants, and Children (42 U.S.C. 1786). ○ Other programs administered by the Secretary. ○ Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.	• PHAs that choose to implement Safe Harbor income determinations must: ○ Establish in policy when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations; and ○ Create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., PHAs could establish policies to accept the most recent income determination). • PHAs must include in their ACOPs or Admin Plans whether they will accept Safe Harbor income determinations, along with the accompanying policies described above, if applicable.
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	○ Other Federal benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice. ● PHAs are not required to accept or use determinations of income from other Federal means-tested forms of assistance. ● Safe Harbor verification must be obtained by means of third-party verification and must state the family size, must be for the entire family (i.e., the family members listed in the documenting must match the family's composition in the assisted unit, except for household members) and must state the amount of the family's annual income.	
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Enterprise Income Verification (EIV) Usage (24 CFR § 5.233)	• PHAs must use HUD’s EIV system in its entirety, in accordance with 24 CFR 5.233. • PHAs must update their EIV policies and procedures to reflect their discretionary use of EIV reports (e.g., Income Report, zero income reports, New Hires Report, IVT) under HOTMA.	• PHAs are not required to use EIV during interim reexaminations. • PHAs who adopt local policies to not include <i>earned</i> income increases in determining whether the 10% threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination, are not required to use the EIV New Hires report between annual reexaminations. • PHAs who have a policy to consider <i>earned</i> income increases in calculating whether the 10% threshold has been met for an interim reexamination are required to review the EIV New Hires report at least quarterly, for the remainder of the reexamination period <u>after</u> the interim reexamination to decrease rent occurs.
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Preparing for HOTMA

Topic	Information/Guidance
PHA forms	• PHAs must update any form referencing eligibility or admission annual and interim reexamination, etc. to comply with the HOTMA final rule. • For example: ○ The PHA's local interim reexamination form must provide families a place to report all changes that impact annual adjusted income including: all changes in income, assets, expenses, and household composition. ○ A self-certification form to determine present ownership interest in any real property. If applicable i.e., the family has ownership in real property, the form can also include questions regarding the legal right to reside in, and the effective legal authority to sell a property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence. ○ A self-certification form to declare net family assets are \$50,000 or less. This form must allow families to report anticipated asset income earned.
Impact of HOTMA on Family Self-Sufficiency (FSS) Programs	PHAs who operate FSS programs should note that families participating in the FSS program are subject to all HOTMA interim reexamination regulations. PHAs cannot implement local policy to perform an interim reexamination for increases in adjusted income below the 10% threshold for FSS participants. Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised IR regulations may provide these families the opportunity to use their increased earnings to realize other short or long-term goals outside of the scope of the FSS program. The HOTMA interim reexamination regulations impact administration of the FSS program in the following ways:

	1. FSS participants are subject to <i>all</i> requirements of the HOTMA interim reexamination regulations; and 2. At enrollment, PHAs may not perform an interim reexamination of annual income <i>unless</i> the family experienced a change in adjusted annual income that meets the threshold to perform an interim reexamination under the HOTMA final rule. 3. Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of the 5-year contract².
HOTMA Resources	HOTMA Resources Page (Public Housing and HCV): HOTMA Resources HUD.gov / U.S. Department of Housing and Urban Development (HUD) HUD Exchange (Public Housing and HCV only): Materials Posted: HOTMA Income and Assets Training Series - HUD Exchange

https://www.hud.gov/sites/dfiles/PIH/documents/PH_HCV_Discretionary_Policies_Implement_HOTMA-Revised_2-29-24.pdf

²See the [Streamlining and Implementation of Economic Growth, Regulatory Relief, and Consumer Protection Act Changes to Family Self-Sufficiency Program](#) final rule for more information on requirements related to the term of the FSS contract of participation (COP) i.e., it generally expires 5 years *from the date of the family's first re-certification of income after* the effective date of the FSS COP.

Multifamily Housing Programs

List of Discretionary Policies to Implement HOTMA

This chart is intended to make MFH Owners aware of the policies they must set in their respective Tenant Selection Plan (TSP) and EIV policies and procedures by March 31, 2024.

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
Asset Limitation for New Admissions (24 CFR § 5.618) Section 8 and 202/8 programs only. Reference: Notice H 2023-10 / Attachment A	• MFH Owners must deny admission of an applicant family for the following: 1. Net family assets that exceed \$100,000 (adjusted annually for inflation); and/or 2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence. • MFH Owners must include this admissions policy in their TSP.	No discretion.
Asset Limitation at Annual and Interim Reexaminations (24 CFR § 5.618) Section 8 and 202/8 programs only. Reference: Notice H 2023-10 / Attachment A		MFH Owners have the following policy options at annual and interim reexaminations: 1. Total Enforcement • MFH Owners may choose to fully enforce the asset limitation exactly as

¹ All discretionary policies must be clearly stated in an owner’s Tenant Selection Plan and EIV policies and procedures. Additionally, all discretionary policies must be applied equally to each family pursuant to 24 CFR § 5.105(a).

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
		written in the statute² (i.e., the real property requirement and the \$100,000 net family assets requirement). Nothing in paragraphs (4), (5), or (6) of Section 104 of HOTMA compels MFH Owners to exercise the discretion provided by the statute. 2. Total Non-Enforcement - MFH Owners may choose to establish a written policy to <u>not enforce</u> the asset limitation for <u>all families</u> at annual and interim reexamination. 3. Limited Enforcement - MFH Owners may choose to establish a written policy to not enforce the asset limitation for all families, for up to six months after the effective date of a family’s annual or interim reexamination. Families are given the opportunity to cure noncompliance with the asset limitation during this period. - Limited non-enforcement policies must address the timeframe for curing

² [Pub. L. 114-201](#).

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
		non-compliance (e.g., MFH Owners may choose to adopt policies to allow any number of months, up to six months, to cure noncompliance with the asset limitation). • MFH Owners who establish limited enforcement policies may not delay initiation of termination of assistance beyond six months after the effective date of the annual or interim reexamination. 4. Exception Policies • MFH Owners may establish in written policy exceptions to the asset limitation based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. • MFH Owners may establish total non-enforcement for excepted families, or they may establish limited enforcement for excepted families to give those families the opportunity to cure noncompliance with the asset

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
		limitation for a period up to six months. • Exception policies <u>must</u> conform with applicable fair housing statutes and regulations. • Exception policies must describe the families who are excepted, <u>and</u> the policies must describe whether excepted families are subject to total nonenforcement or limited nonenforcement of the asset limitation. If excepted families are subject to limited nonenforcement, then the exception policy must address the timeframe for curing non-compliance (e.g., MFH Owners may choose to adopt policies to allow any number of months, up to six months, to cure noncompliance with the asset limitation). • MFH Owners who establish exception policies with a limited enforcement period may not delay initiation of termination of assistance beyond six months after the effective date of the annual or interim reexamination.

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
		Note: MFH Owners may establish <u>both</u> limited non-enforcement and exception policies. The above discretion is <u>not</u> applicable to eligibility determinations for new admissions or initial certifications (IC) of assistance. MFH Owners must include their asset limitation policy at annual and interim reexamination in their TSP.
De Minimis Errors in Income Determinations (24 CFR §§ 5.609(c)(4); 5.657(f); 891.105; 891.410(g); and 891.610(g)) Reference: Notice H 2023-10 / Attachment B	- MFH Owners must take corrective action to credit or repay a family if the family was overcharged tenant rent because of de minimis errors in calculating family income. - MFH Owners may not implement policies to require families to repay in instances resulting in a family being undercharged for rent where the MFH Owner miscalculated the family’s income.	MFH Owners must include in their TSP how they will repay or credit a family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the MFH Owner’s de minimis error in income determination.
Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care & Auxiliary Apparatus Expenses — General Relief (24 CFR § 5.611(c)(2)) Reference:	MFH Owners must provide hardship relief to a family that demonstrates its eligible health and medical care expenses, or reasonable attendant care and auxiliary apparatus expenses exceed 5 percent of the family’s annual income.	Generally, MFH Owners must develop written policies in their TSP defining what changes in circumstances are required for the family to be eligible for the health and medical care expenses and reasonable attendant care & auxiliary apparatus general hardship exemption, that would

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies¹
Notice H 2023-10 / Attachment C	• An increase in health and medical care, reasonable attendant care, and auxiliary apparatus expenses constitutes a qualifying eligibility factor under 24 CFR 5.611(c)(2)(i), so long as it exceeds 5% of the family's annual income (24 CFR 5.611(c)(2)(ii)). • To meet the requirements for the health and medical care expense hardship exemption, the family must have expenses that meet the definition of health and medical care expenses as provided by 24 CFR 5.603(b). • To meet the requirements for the reasonable attendant care and auxiliary apparatus expenses hardship exemption, the family must have expenses that meet the definition of reasonable attendant care and auxiliary apparatus expenses at 24 CFR 5.603(b).	not otherwise trigger an interim reexamination. • MFH Owners may, pursuant to their own discretionary policies, extend the hardship relief for one or more 90-day intervals, while the family’s hardship condition exists. • MFH Owners must state in their TSP whether extensions of the 90-day hardship period are allowable, and the maximum number of 90-day extensions (if establishing a maximum policy) families may receive. Note: MFH Owners are not limited by HUD to a maximum number of 90-day extensions. • MFH Owners must obtain third-party verification of the hardship or must document in the file the reason that third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day hardship period.
Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant	• All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on	• MFH Owners may continue the phased-in relief for a new admission who was receiving the phased-in relief at their prior assisted housing at the time that the

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
Care & Auxiliary Apparatus Expenses — Phased-In Relief (24 CFR § 5.611(c)(1)) Reference: Notice H 2023-10 / Attachment C	their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first on or after the date the MFH Owner complies with HOTMA. - Families who receive phased-in relief will have eligible expenses deducted as follows: <u>1st 12 months</u> – in excess of 5% of annual income. <u>2nd 12 months</u> – in excess of 7.5% of annual income. <u>After 24 months</u> – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for General Relief. - Once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.	family is admitted to their current unit. This discretion should be stated in the TSP. For example, a family is admitted to a new MFH property, but they would have still been receiving the 24-month phased-in hardship exemption had they continued to reside in their previous unit at a different MFH property. MFH Owners may establish a policy to continue the phased-in hardship exemption for the family’s remaining months in the 24-month phase-in period.
Hardship Exemption to Continue Child-Care Expense Hardship (24 CFR § 5.611(d)) Reference:	MFH Owners must develop written policies to define what constitutes a hardship, which includes the family’s inability to pay rent, for the purposes of	MFH Owners may, pursuant to their own discretionary policies, extend the hardship relief for one or more additional 90-day periods while the family’s hardship condition continues.

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
Notice H 2023-10 / Attachment C	the childcare expense hardship exemption. - MFH Owners must include this policy in their TSP. - MFH Owners must obtain third-party verification of the family’s inability to pay rent or must document in the file with the reason third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.	MFH Owners must include in their TSP whether they will allow extensions of the 90-day hardship period and the maximum number of 90-day extension periods (if establishing a maximum policy) that a family may receive. Note: MFH Owners are not limited by HUD to a maximum number of 90-day extensions.
Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (adjusted annually for inflation) (24 CFR §§ 5.603; 5.609; 5.618; 5.659; 891.105; and 891.415(a)(2)) Reference: Notice H 2023-10 / Attachment F; Appendix: Sample Net Family Assets Self-Certification Form	MFH Owners must determine if the family’s total net family assets are equal to or less than \$50,000, and they must determine the actual income earned from the asset(s).	- MFH Owners may accept a family’s self-certification of net family assets equal to or less than \$50,000 (adjusted annually for inflation) and anticipated income earned from assets without taking additional steps to verify accuracy, at admission and at reexamination. - Accepting a family’s self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, MFH Owners are encouraged to consider the local needs and priorities in their communities along with the potential

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
		risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance. • MFH Owners who choose to accept self-certification of net family assets equal to or less than \$50,000 (adjusted annually for inflation) at reexamination are required to fully verify net family assets every three years (5.659(e)). • MFH Owners who choose not to accept self-certification must verify net family assets every year. • MFH Owners must include in their TSP whether they will accept a family’s self-certification of net family assets equal to or less than \$50,000 at admission (only for new admissions effective on or after 1/1/2024) and/or at reexamination.
Interim Reexaminations — Decreases in Adjusted Income (24 CFR §§ 5.657(c)(2); 891.105; 891.410(g); and 891.610(g)) Reference: Notice H 2023-10 / Attachment I	• MFH Owners are required by HUD to process interim reexaminations for <i>all</i> decreases in adjusted income when a family member permanently moves out of the unit.	• MFH Owners may decline to conduct an interim reexamination of family income if the MFH Owner estimates that the family’s annual adjusted income will decrease by an amount that is less than ten percent of the family’s annual

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
	MFH Owners <u>are not permitted</u> to establish a dollar figure threshold amount instead of a percentage threshold less than 10%.	adjusted income, or such lower threshold established by the MFH Owner. - MFH Owners must identify in their TSP the percentage threshold they will use for conducting interim reexamination for decreases in a family’s adjusted income. - MFH Owners may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5% may be rounded up to 10%).
Interim Reexaminations — Increases in Adjusted Income (24 CFR §§ 5.657(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2) Reference: Notice H 2023-10 / Attachment I	MFH Owners must conduct an interim reexamination of family income when they become aware that the family’s annual adjusted income has changed by an amount that would result in an estimated increase of ten percent or more in annual adjusted income or another amount established through a HUD notice, except MFH Owners may not consider any increases in <i>earned</i> income when estimating or calculating whether the family’s adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle.	- MFH Owners may choose not to conduct an interim reexamination if a family reports an increase in income within three months of their next annual reexamination effective date. - MFH Owners may choose not to include <u>earned</u> income increases in determining whether the 10% threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination.

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
	MFH Owners <u>may not</u> establish a different threshold to conduct interim reexaminations for increases in adjusted income.	MFH Owners must describe these policies in their TSP.
Interim Reexaminations — Reporting Changes & Effective Date (24 CFR §§ 5.657(c)(4); 891.410(g)(2); and 891.610(g)(2) Reference: Notice H 2023-10 / Attachment I	- Families must report household composition changes and changes to adjusted income consistent with HOTMA’s requirements; however, MFH Owners determine the timeframe in which reporting must occur to be considered “timely.” - If the MFH Owner has adopted a retroactive rent decrease policy, it may not be applied prior to the later of: - The 1st of the month following the date of the actual decrease in income; or - The 1st of the month following the most recent previous income examination. Note: MFH Owners must clearly communicate to the family how a retroactive adjustment will affect the family’s responsibility for rent.	- MFH Owners must develop policies that describe when and under what conditions families must report changes in household composition and adjusted income consistent with HUD’s requirements for processing an interim reexamination or other non-interim reexamination transaction. - MFH Owners have the discretion to develop specific reporting policies that describe which changes must be reported and the timeline for reporting the change to be considered timely. - MFH Owners may adopt a policy to apply rent decreases retroactively and establish additional criteria to describe the conditions under which retroactive decreases will be applied. - MFH Owners must describe these policies in their TSP.

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
Revocation of Consent Form (Form HUD–9887)³ (24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c)); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii) Reference: Notice H 2023-10 / Attachment J	• The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family provides written notification to the MFH Owner to revoke consent. • Families have the right to revoke consent by notice to the MFH Owner; however, revoking consent can result in termination or denial of assistance if the MFH Owner has established an admission and occupancy policy that the revocation of consent will result in termination of assistance or denial of admission. • MFH Owners may not process interim or annual reexaminations of income, including when a family’s income decreases and the family requests an interim reexamination to decrease tenant rent, without the family’s executed consent form(s). • MFH Owners must explain to families the consequences, if any, of revoking their consent.	• MFH Owners may establish in written policy that revocation of consent will result in termination of assistance or denial of admission. • When MFH Owners do not establish a policy such that revoking consent will result in termination of assistance, participant families will be required to sign a new consent form by the next regularly scheduled reexamination or interim reexamination, whichever occurs first. • MFH Owners may establish policies to deny admission but allow existing participant families to continue to receive assistance after revoking their consent until the next interim or annual reexamination, whichever is sooner. • MFH Owners must describe these policies in their TSP.

³ Revocation of consent or refusal to sign the consent form prohibits the MFH Owner from requesting and accessing income information and financial records, including pulling any EIV reports and using EIV data to verify income.

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
	MFH Owners <u>must</u> notify their local HUD office when an applicant or participant family member revokes their consent. Note: Data matches between HUD and other agencies will continue to automatically occur, when consent is revoked, if the family is not terminated from the program.	
Determination of Family Income Using Other Means Tested Public Assistance, i.e., “Safe Harbor” (24 CFR §§ 5.609(c)(3); 891.105; 891.410(b)-(c) and (g); and 891.610(b)-(c) and (g) Reference: Notice H 2023-10 / Attachment J	- MFH Owners may determine the family’s income prior to the application of any deductions based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance: - The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.). - Medicaid (42 U.S.C. 1396 et seq.). - The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.). - The Earned Income Tax Credit (26 U.S.C. 32). - The Low Income Housing Tax Credit (26 U.S.C. 42).	- MFH Owners that choose to implement Safe Harbor income determinations must: - Establish in policy when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations; and - Create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., MFH Owners could establish policies to accept the most recent income determination). - MFH Owners must describe these policies in their TSP.

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
	- o The Special Supplemental Nutrition for Woman, Infants, and Children (42 U.S.C. 1786). - o Other programs administered by the Secretary. - o Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding. - o Other Federal benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice. • MFH Owners are not required to accept or use determinations of income from other Federal means-tested forms of assistance. • Safe Harbor verification must be obtained by means of third-party verification and must state the family size, must be for the entire family (i.e., the family members listed in the documenting must match the family’s composition in the assisted unit, except for household members) and must	

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
	state the amount of the family’s annual income. • Safe Harbor verification must not be mixed and matched with other income verifications, including other Safe Harbor income determinations.	
Enterprise Income Verification (EIV) Usage (24 CFR § 5.233) Reference: Notice H 2023-10 / Attachment J	• MFH Owners must use HUD’s EIV system in its entirety, in accordance with 24 CFR 5.233. • MFH Owners must update their EIV policies and procedures to reflect their discretionary use of EIV reports (e.g., Income Report, zero income reports, New Hires Report, etc.) under HOTMA.	• MFH Owners are not required to use EIV during interim reexaminations. • MFH Owners who adopt policies to not include <u>earned</u> income increases in determining whether the ten percent threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination, are not required to use the EIV New Hires report between annual reexaminations. • MFH Owners who have a policy to consider <u>earned</u> income increases in calculating whether the ten percent threshold has been met for an interim reexamination are required to review the EIV New Hires report at least quarterly, for the remainder of the reexamination

HOTMA Provision / Regulation / H 2023–10 Reference	Required HOTMA Policy	MFH Owner’s Discretionary Policies ¹
		period <u>after</u> the interim reexamination to decrease rent occurs. • MFH Owners are not required to use the EIV Income Report or New Hires Report at annual reexamination if they use Safe Harbor verification to determine the family’s income. • MFH Owners are not required to use the EIV Income Discrepancy Report at annual reexamination if they used Safe Harbor verification to determine the family’s income at the last reexamination. • MFH Owners must describe these policies in their EIV policies and procedures.

https://www.hud.gov/sites/dfiles/Housing/documents/MFH_List_Discretionary_Policies_Implement_HOTMA-Updated02012024.pdf

ADMISSIONS AND CONTINUED OCCUPANCY POLICY
FOR THE
PUBLIC HOUSING PROGRAM

Product # 301-001

May 1, 2005

Revision Date	
February 1, 2006	March 1, 2016
October 1, 2006	March 1, 2017
June 1, 2007	July 1, 2017
September 1, 2008	July 1, 2018
September 1, 2009	June 1, 2019
August 1, 2010	July 1, 2020
June 1, 2011	May 1, 2021
June 1, 2012	September 1, 2022
June 1, 2013	March 1, 2023
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ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

EFFECTIVE JULY 1,
2025

Portland Housing Authority



Admissions and Continued Occupancy Policy (ACOP)

PORTLAND HOUSING AUTHORITY

Approved by the HA Board of Commissioners:

Date: April 3, 2025

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Upon the PHA's HOTMA 102/104 compliance date, the below section on the asset limitation is added:

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

PHA Policy

The PHA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to the PHA's public housing program.

New admissions moving with continued housing assistance from one of PHA's HUD funded housing programs i.e. Public Housing, Housing Choice Vouchers, or Section 8 Multifamily will not be subject to termination due to asset limitation.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy.

Additionally, under the Violence against Women Act, the PHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

PHA Policy

The PHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon PHA request.

Repayment of Family Debts

PHA Policy

If a family owes amounts to the PHA, as a condition of continued occupancy, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.



2025 HUD Inflation-Adjusted Values (Table 1): Effective January 1, 2025

Note: If your agency/property/program administrator is not yet complying with Sections 102 and 104 of HOTMA, you will not utilize this table. Annual inflationary adjustments, the new thresholds (e.g., asset limitation), and the requirement to use this passbook rate are among the provisions of Sections 102 and 104 of HOTMA.

Calculation Component	Adjusted Item	Regulatory Reference	Amount	Applicable Programs ¹
Asset Limitation	Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	\$103,200	Section 8 PBRA, 202/8, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA
Annual Income	Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	\$51,600	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	Threshold above which the total value of non-necessary personal property is included in net family assets	24 CFR § 5.603(b) Definition <i>Net family assets</i>	\$51,600	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	The amount of net assets for which the PHA/MFH Owner/Grantee may accept self-certification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	\$51,600	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF

¹ Some components in Tables 1 & 2 may also apply to other HUD programs not listed here that use the definitions of annual income and adjusted income in 24 CFR Part 5, subpart F to determine eligibility or assistance levels.

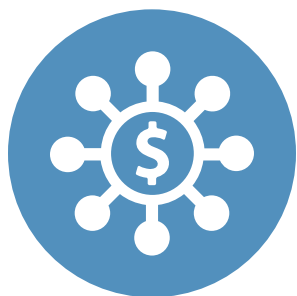
Calculation Component	Adjusted Item	Regulatory Reference	Amount	Applicable Programs ¹
Annual Income	Income exclusion for earned income of dependent full-time students	24 CFR § 5.609(b)(14)	\$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	\$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
Adjusted Income	Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	\$525	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME
	Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	\$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME



2025 HUD Passbook Savings Rate (Table 2): Effective January 1, 2025

Adjusted Item	Regulatory Reference	Rate	Applicable Programs
Passbook Savings Rate	24 CFR 5.609(a)	0.45%	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF

<https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html>



Assets, Asset Exclusions, and Limitation on Assets Resource Sheet

For more information refer to the full HOTMA Income and Assets Training Series, including the Income Fact Sheet.

Definition of Assets 24 CFR 5.603(b) “Net Family Assets” Para. (1)

Net family assets: the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment.

This new definition includes the cash value of all family assets with the exception of the expanded and enumerated exclusions.

Eligibility Restrictions Due to Family Assets 24 CFR 5.618(a)

HOTMA restricts families from receiving assistance in the public housing or housing choice voucher program if their net family assets exceed \$100,000* or if the family owns real property suitable for the family to live in. There are qualifications and exemptions from both requirements.

PHAs cannot waive the asset requirements but can delay enforcement for current participants up to 6 months based on PHA policy.

Determining net family assets 24 CFR 5.603(b) “Net Family Assets” Para. (2)

- PHAs must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, in excess of the consideration received.
- In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.
- Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify an exclusion from family assets.

** 2024 amount. After 2024, HUD will adjust the amount annually based on CPI-W.*



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Assets, Asset Exclusions, and Limitation on Assets Resource Sheet

Income from Assets **24 CFR 5.609(a)**

In general, income from assets is considered income. If it is possible to calculate actual returns from an asset, the PHA should use that amount.

If it is not possible to calculate an actual return on an asset, and:

- The net family assets are \$50,000* or less, the imputed income from that asset is excluded
- The net family assets are over \$50,000,* the PHA must impute income for the asset based on the current passbook savings rate, as determined by HUD

Net Family Assets Scenario	Actual Income	Imputed Returns	Amount Included in Income
Assets of \$50,000 or less	Included	Not calculated	Actual income only
Exceeds \$50,000 and actual income can be computed for ALL assets	Included	Not calculated	Actual income only
Exceeds \$50,000 and NO actual income can be computed	N/A	Calculated using HUD passbook rate for all assets	Imputed returns for all assets
Exceeds \$50,000, but actual income can only be computed for some assets	Included for assets that can be computed	Calculated for any remaining assets where actual income cannot be computed	Actual income that can be computed AND imputed returns for all remaining assets that cannot be computed

Restriction on Owning Real Property Suitable for Occupancy

24 CFR 5.618(a)(ii)

A family cannot receive benefits if they have “present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on state or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence.”

The restriction on owning real property does not apply to:

- A family that receives assistance for the property under the Housing Choice Voucher Program for:
 - » Manufactured home (24 CFR 982.620)
 - » Homeownership Option
- Property jointly owned with someone else, and occupied by the other owner who is not a member of the household receiving benefits.
- A victim of domestic violence, dating violence, sexual assault, or stalking.
- A family that is offering the property for sale.

Assets, Asset Exclusions, and Limitation on Assets Resource Sheet

A family that owns a property may show it is not “suitable for occupancy” if it:

- Does not meet the disability-related needs for all members of the family.
 - » Examples: Physical needs, proximity to transit, need for additional bedrooms or space, etc.
- Is not sufficient for the size of the family.
- Is located so as to be a hardship for the family.
 - » Example: the location would be a hardship for the family’s commute to work or school
- Is unsafe because of physical condition.
 - » Unless issues can be “easily remedied”
- Cannot be a residence per local or state laws.
 - » Example: a storefront zoned for commercial use only

Documentation of Assets **24 CFR 5.618(b)**

For documentation of net family assets under \$50,000*, the PHA may accept self-certification from the family that the assets are under that amount.

- Certification must include any expected income from the assets (actual returns only).
- No further documentation is required by the PHA for the net family asset restriction.
- Assets must be verified every 3 years.

Property ownership: the PHA may accept self-certification that the “family does not have any present ownership interest in any real property.”

- The statutory self-certification *only* asks about ownership, and does not address the other elements of the restriction (such as a legal right to reside in, and the effective legal authority to sell the property).
- PHAs can use a form with the statutory self-certification question as well as follow-up questions related to other elements.

If family declares a property and asks for an exemption because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking:

- The PHA must accept self-certification of the family member
- **24 CFR 5.2007** applies
 - » Confidentiality rules
 - » Restrictions on document requests
- HUD expects to update VAWA-related forms at a later date
 - » Form HUD **5380** Notice of Occupancy Rights under VAWA
 - » Form HUD **5382** Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

Assets, Asset Exclusions, and Limitation on Assets Resource Sheet

Excluded assets 25 CFR 5.603(b) “Net Family Assets” Para. (3) and (4)

The following assets are excluded under HOTMA. If the family owns an excluded asset, its value does not count toward the restriction due to net family assets. Most of these exclusions are new.

Category	Excluded Asset	Example(s)	Notes
Personal property	Necessary items of personal property	Medical devices, vehicle for commute	Determining what is a “necessary item” for personal property is a highly fact-specific determination. Additional guidance is forthcoming from HUD.
Personal property	Non-necessary items of personal property if the combined total value does not exceed \$50,000*	Vintage baseball cards, recreational boat, coin collection, art so long as the <i>total</i> value is under the limit	This matches the value of assets that can be self-certified by the family.
Savings account	Retirement account recognized by IRS	IRA, 401(k), 401(b) and retirement plans for self-employed individuals	
Real property	Real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located	Property subject to a lawsuit may be legally restricted from sale.	Such property does not count against the dollar amount limit or the real property limitation
Cash	Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member, for an incident resulting in a disability	A drunk driver injures a family member, who then has a disability. The family sues, and the driver’s insurance pays the family.	
Savings account	The value of certain education or disability support savings accounts	Under Internal Revenue Code sections 529, 529A, 530, “baby bond” accounts	Coverdell accounts, tuition programs, any “baby bond” account created, authorized, or funded by Federal, state, or local government
Real property	Interest in Indian trust land	Family has interest in land held in trust by Bureau of Indian Affairs	Existing exclusion
Real property	Equity in a manufactured home where the family receives assistance under 24 CFR 982	HCV Manufactured Home Space Rental participants	
Real property	Equity in property where the family receives assistance under 24 CFR 982	HCV homeownership participant	For real property other than manufactured homes
Savings account	Family Self-Sufficiency (FSS) accounts		The family does not have access to FSS funds during their participation in the program. Also excluded from income.
Cash	Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family	Earned Income Tax Credits (EITC)	
Trust Funds	Trust that is not revocable by, or under the control of, any member of the family or household	Non-revocable trust fund; trust fund revocable once minor child reaches age 21	As long as a trust meets this definition, it is not an asset of the family

<https://files.hudexchange.info/resources/documents/Assets-Asset-Exclusions-and-Limitation-on-Assets-Resource-Sheet.pdf>



Income and Income Exclusions Resource Sheet

For more information refer to the full HOTMA Income and Assets Training Series, including the Income Fact Sheet.

Annual Income **24 CFR 5.609(a)**

Annual income includes, with respect to the family:

- All amounts, not specifically excluded below, received from all sources by each member of the family 18 years or older or is the head of household or spouse of the head of household, plus
- Unearned income by or on behalf of each dependent who is under 18 years of age, and
- Imputed returns on net family assets exceeding \$50,000 (adjusted annually using the CPI-W) when the value of the actual returns from a given asset cannot be calculated. Imputed returns are based on the current passbook savings rate, as determined by HUD. **(Note: if it is possible to calculate actual returns from an asset, the PHA should use that amount as income).**

EXCLUSIONS

Federally Mandated Income Exclusions **24 CFR 5.609(b)(22)**

Amounts that HUD is required by federal statute to exclude as income for determining eligibility or benefits. HUD will publish an updated notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

- Mandatory Income exclusions related to ABLE accounts will be detailed here. PHAs can refer to Notice PIH 2019-09/H-2019-06, or any subsequent notice on the subject, for details on when ABLE account income is excluded.

Assets **24 CFR 5.609(b)(1)**

Imputed returns: Any imputed return on an asset when net family assets total \$50,000 or less (adjusted by HUD annually per CPI-W) and no actual income from the net family assets can be determined. **(Note that: Actual returns from assets are included in income.)**



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Income and Income Exclusions Resource Sheet

Non-recurring income 24 CFR 5.609(b)(24)

Income that will not be repeated in the coming year based on information provided by the family.

Some examples of non-recurring income include:

- U.S. Census Bureau for employment income (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not resulting in permanent employment.
- Direct federal or state payments for economic stimulus or recovery.
- State or federal refundable tax credits or state or federal tax refunds received directly at the time they are received directly by the family.
- Gifts for significant life events or milestones (e.g., holidays, birthdays, wedding gifts, baby showers, anniversaries).
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- Lump-sum additions to net family assets, including but not limited to **lottery** or other contest winnings.

Note that: Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income, even if the source, date, or amount of the income varies.

Self-employment Income 24 CFR 5.609(b)(28)

Gross income received through self-employment or operation of a business; with the exception of the following which **shall be considered income**:

- Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in IRS regulations; and
- Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.



Note: gross income is the total income that a business brings in and is not reflective of the costs of operating a business or of being self-employed

Minors Earned Income 24 CFR 5.609(b)(3)

All earned income of all children under the age of 18, including foster children.

Income and Income Exclusions Resource Sheet

Adoption assistance payments **24 CFR 5.609(b)(15)**

Earned income in excess of the amount of the deduction for a dependent in § 5.611.

- Deduction is currently \$480* per child. The end result is that all adoption assistance payments will be excluded.

Earned Income of Dependent Students

24 CFR 5.609(b)(14)

Earned income of dependent full-time students in excess of the amount of the deduction for a dependent.

- Deduction is currently \$480* per dependent. The end result is that these payments will not be counted.

Title IV HEA Assistance **24 CFR 5.609(9)(i)**

Any assistance that section **479B of the Higher Education Act of 1965**, as amended (20 U.S.C. 1087uu), requires to be excluded from a family's income including Bureau of Indian Affairs or Department of Education student assistance programs. These amounts are only excluded up to the cost that covers tuition and other required fees in Section 8 households if the student is the head of household or that person's spouse.



See the **Student Aid and Financial Assistance Resource Sheet** for more information on how to calculate the exclusion, particularly when the student receives funds from both types of sources.

Other Student Financial Assistance **24 CFR 5.609(9)(ii)**

Student financial assistance, not excluded under the HEA for "actual covered costs" of higher education paid directly to the student or to the educational institution on the student's behalf.

Educational Savings Account **24 CFR 5.609(b)(10)**

Income and distributions from any Coverdell educational savings account or any qualified tuition program under IRS sections 529 and 530.

Baby bonds **24 CFR 5.609(b)(10)**

Income earned by government contributions to, or distributions from, 'baby bond' accounts created, authorized, or funded by federal, state, or local government.

Foster Children / Adults Payments **24 CFR 5.609(b)(4)**

Payments received for the care of foster children or adults, including state kinship, guardianship care payments, or tribal kinship payments.

* As adjusted annually by CPI-W and rounded to the next lowest multiple of \$25.

Income and Income Exclusions Resource Sheet

Foster Children/ Adults Income 24 CFR 5.609(b)(8)

Income of foster child or adult (as defined in 24 CFR 5.403 and 5.603).

Live-in Aide 24 CFR 5.609(b)(8)

Income of a live-in aide.



Note on Foster Children/Adults and Live-in Aides: Foster adults and foster children are members of the household and therefore considered when determining appropriate unit size and utility allowance. However, they are not considered members of the “assisted family” in determining annual and adjusted income or net family assets; nor are the assets of foster adults or children taken into consideration for purposes of asset limitations. A live-in aide is treated similarly for purposes of income and assets.

State Payments to Allow Individuals with Disabilities to Live at Home

24 CFR 5.609(b)(19)

These payments must be made:

- by or authorized by a state Medicaid managed care system or other state agency
 - » Includes: state Medicaid-managed care system, other state agency, or authorized entity
- to a family to enable a family member who has a disability to reside in the family’s assisted unit.



Note on HOTMA changes to State Payments to Allow Individuals with Disabilities to Live at Home:

- HOTMA expands the exclusion to cover all payments by the state Medicaid-managed care system, other state agency, or authorized entity, for caregiving services to enable a family member with a disability to live in the assisted unit.
- No change if the family already received such payment that was excluded from income
- Previous requirement that these payments offset the cost of services or equipment has been eliminated.

Plan to Attain Self-Sufficiency (PASS) 24 CFR 5.609(b)(12)(i)

Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).

Income and Income Exclusions Resource Sheet

Trust distributions **24 CFR 5.609(b)(2)**

Irrevocable trust or revocable trust outside of family or household control, excluded from the definition of net family assets under § 5.603(b),

- Distributions of the principal, or corpus, of the trust, and
- Distributions of income from the trust used to pay the costs of health and medical care expenses for a minor.

Revocable trust or a trust under the control of the family or household: any distributions from the trust are excluded from income.

- Except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.



Note: given that the corpus (or principal) of a trust is not new money coming in for the family, any distributions of a trust's principal, regardless of the form of the trust, are excluded. As a general rule, PHAs and owners must count any distributions of income from an irrevocable trust or a trust not under the control of the family (e.g., distributions of earned interest) as income to the family with the exception of distributions used to pay the health and medical care expenses of a minor.

Reimbursements for Health and Medical Care Expenses **24 CFR 5.609(b)(6)**

Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

Insurance payments and settlements for personal or property loss

24 CFR 5.609(b)(5)

Including, but not limited to: payments through health insurance, motor vehicle insurance, and workers' compensation.

Retirement plan **24 CFR 5.609(b)(26)**

Income received from any account under an IRS-recognized retirement plan. However, any distribution of **periodic payments** from these accounts shall be income at the time they are received by the family. Retirement accounts include:

- Individual retirement arrangements (IRAs)
- Employer retirement plans, and
- Retirement plans for self-employed individual

Military **24 CFR 5.609(b)(11)**

The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

Income and Income Exclusions Resource Sheet

Veterans 24 CFR 5.609(b)(17)

Payments related to aid and attendance for veterans under 38 U.S.C. 1521.

Lawsuit Settlements 24 CFR 5.609(b)(7)

Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family having a **disability**.

Reparations for Persecution 24 CFR 5.609(b)(13)

Reparation payments paid by a foreign government for claims by people persecuted during the Nazi era.

Tribal Claims Payments 24 CFR 5.609(b)(21)

Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States. This includes payments from tribal trust settlements. Payments must be excluded from gross income under the Internal Revenue Code or other federal law.

Civil Rights Settlements and Judgements 24 CFR 5.609(b)(25)

Civil rights settlements or judgments, including settlements or judgments for back pay.

Reimbursements from other publicly assisted programs

24 CFR 5.609(b)(12)(ii)

Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) to allow participation in a specific program.

Resident Services Stipend 24 CFR 5.609(b)(12)(iii)

Resident service stipends not to exceed \$200 per month. This is a modest amount provided to a resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development.

Employment training programs 24 CFR 5.609(b)(12)(iv)

Incremental earnings and benefits from training programs funded by HUD or qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff.

- Excluded amounts must be received under employment training programs with clearly defined goals and objectives and only excluded during participation in the program unless the amounts are excluded as Federal Financial Aid (§ 5.609(b)(9)(i)).

Income and Income Exclusions Resource Sheet

Family Self Sufficiency Account **24 CFR 5.609(b)(27)**

Income earned on amounts placed in a family's FSS.

Housing “gap” payments **24 CFR 5.609(b)(23)**

Replacement housing “gap” payments that offset increased rent and utility costs to families that are displaced from one federally subsidized housing unit and move into another federally subsidized housing unit (49 CFR part 24).

If the gap is reduced or eliminated because of a subsequent move by the tenant or change in the subsidy, and the tenant continues to receive the payment, the payment that is no longer needed to close the gap should be counted as income.

Deferred Supplemental Security Income, Social Security benefits, or Department of Veterans Affairs disability benefits **24 CFR 5.609(b)(16)**

Deferred periodic amounts from:

- Supplemental Security Income and Social Security benefits that are received as a lump sum or in prospective monthly amounts, or
- Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

Property Tax Rebates **24 CFR 5.609(b)(18)**

Refunds or rebates under state or local law for property taxes paid on the dwelling unit.

Loan Proceeds **24 CFR 5.609(b)(20)**

The net amount disbursed by a lender to a borrower, under the loan terms. Funds may be received by the family or a third party (e.g., educational institution or car dealership).

Income and Income Exclusions Resource Sheet

Annual Income Exclusions **24 CFR 5.609(b)**

Income Exclusions Table

Category	Exclusion	CFR	Description
Other	Federally Mandated Income Exclusions	24 CFR 5.609(b)(22)	Amounts that must be excluded by federal statute. HUD will publish a Federal Register notice that includes the qualifying benefits.
Assets	Imputed Income from Assets	24 CFR 5.609(b)(1)	Any imputed return on an asset when net family assets total \$50,000 (adjusted annually) or less and no actual income from the net family assets can be determined.
Non-recurring income	Non-recurring income	24 CFR 5.609(b)(24)	Income that will not be repeated in the coming year based on information provided by the family.
Self-employment	Gross Self-employment Income	24 CFR 5.609(b)(28)	Gross income received through self-employment or operation of a business
Dependents	Minors (children under the age of 18 years)	24 CFR 5.609(b)(3)	All earned income of all children under the age of 18, including foster children.
Dependents	Adoption assistance payments	24 CFR 5.609(b)(15)	Adoption assistance payments for a child in excess of the amount of the dependent deduction.
Students	Earned Income of Dependent Students	24 CFR 5.609(b)(14)	Earned income of dependent full-time students in excess of the amount of the dependent deduction.
Students	Title IV HEA Assistance	24 CFR 5.609(b)(9)(i)	Any assistance that Section 479B of the Higher Education Act (HEA) of 1965, as amended, requires to be excluded from a family's income.
Students	Other Student Financial Assistance	24 CFR 5.609(b)(9)(ii)	Student financial assistance, not excluded under the HEA, for actual covered costs of higher education.
Students	Educational Savings Account	24 CFR 5.609(b)(10)	Income and distributions from any Coverdell educational savings account or any qualified tuition program under IRS section 530 or any qualified tuition program under section 529.
Baby bonds	Baby bonds	24 CFR 5.609(b)(10)	Income earned by government contributions to, or distributions from, 'baby bond' accounts created, authorized or funded by federal, state or local government.
Foster children / adults	Payments for Foster Children / Adults	24 CFR 5.609(b)(4)	Payments received for the care of foster children or adults, including State kinship, guardianship care payments, or tribal kinship payments.
Foster children / adults	Income of foster children / adults	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603.
Live-in Aide	Income of a Live-in Aide	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult.
People with Disabilities	ABLE accounts	24 CFR 5.609(b)(22)	Will be included in federally mandated excluded amounts. Notice PIH 2019-09/H-2019-06 details when ABLE account income is excluded.
People with Disabilities	State Payments to Allow Individuals with Disabilities to Live at Home	24 CFR 5.609(b)(19)	Payment made by an authorized by a state Medicaid managed care system or other state agency to a family to enable a family member to live in the family's assisted unit.
People with Disabilities	Plan to Attain Self-Sufficiency (PASS)	24 CFR 5.609(b)(12)(i)	Amounts set aside for use under a Plan to Attain Self-Sufficiency (PASS).
People with Disabilities	Reimbursements for Health and Medical Care Expenses	24 CFR 5.609(b)(6)	Amounts for, or in reimbursement of, health and medical care expenses for any family member.

(continued)

Income and Income Exclusions Resource Sheet

Category	Exclusion	CFR	Description
Trusts	Trust distributions	24 CFR 5.609(b)(2)	Any distributions of a trust's principal are excluded. PHAs and owners must count any distributions of income from an irrevocable trust or a trust not under the control of the family (e.g., distributions of earned interest) as income to the family with the expectation of distributions used to pay the health and medical care expenses of a minor.
Insurance	Insurance payments and settlements for personal or property loss	24 CFR 5.609(b)(5)	Insurance payments and settlements for personal or property loss including, but not limited to: payments through health insurance, motor vehicle insurance, and workers' compensation.
Retirement	Retirement plan	24 CFR 5.609(b)(26)	Income received from any account under an IRS-recognized retirement plan. However, periodic payments are income at the time of receipt.
Military	Hostile fire special payment	24 CFR 5.609(b)(11)	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
Veterans	Veterans aid and attendance payments	24 CFR 5.609(b)(17)	Payments related to aid and attendance for veterans under 38 U.S.C. 1521.
Lawsuits	Lawsuit Settlements	24 CFR 5.609(b)(7)	Amounts recovered in a civil action or settlement based on malpractice, negligence and other breach of duty claim resulting in a family member becoming disabled.
Lawsuits	Reparations for Persecution	24 CFR 5.609(b)(13)	Reparation payments paid by a foreign government for claims by people persecuted during the Nazi era.
Lawsuits	Tribal Claims Payments	24 CFR 5.609(b)(21)	Payments received by tribal members from claims relating to the mismanagement of assets held in trust by the United States.
Lawsuits	Lawsuits related to civil rights	24 CFR 5.609(b)(25)	Civil rights settlements or judgments, including settlements or judgments for back pay.
Reimbursements	Reimbursements from publicly assisted programs	24 CFR 5.609(b)(12)(ii)	Amounts received by a participant in other publicly assisted programs for or in reimbursement of expenses to allow program participation (e.g., special equipment, clothing, transportation, child care, etc.).
Resident Services Stipend	Resident Services Stipend	24 CFR 5.609(b)(12)(iii)	Resident service stipends of \$200 or less per month for performing a part-time service for the PHA that enhances the quality of life in the development.
Employment training programs	Employment training programs	24 CFR 5.609(b)(12)(iv)	Incremental earnings and benefits from training programs HUD and qualifying employment training programs and training of a family member as resident management staff.
FSS	Family Self Sufficiency Account	24 CFR 5.609(b)(27)	Income earned on amounts placed in a family's FSS account.
Housing gap payments	Housing "gap" payments	24 CFR 5.609(b)(23)	Replacement housing "gap" payments to offset increased rent and utility costs to families displaced from one federally subsidized housing unit and another.
Benefits	Deferred Supplemental Security Income, SS income and benefits, or VA disability benefits	24 CFR 5.609(b)(16)	Deferred periodic amounts from: SSI, Supplemental Security Income and benefits or VA disability benefits that are received in a lump sum or prospective monthly amounts.
Property tax rebates	Property Tax Rebates	24 CFR 5.609(b)(18)	Refunds or rebates under state or local law for property taxes paid on the dwelling unit.
Loans	Loan Proceeds	24 CFR 5.609(b)(20)	The net amount disbursed by a lender to a borrower or a third party (e.g., educational institution or car dealership).

<https://files.hudexchange.info/resources/documents/Income-and-Exclusions-Resource-Sheet.pdf>

HOTMA FAQ

These are the most frequently asked questions from our HOTMA Compliance training program. This page is updated frequently, so check back often to see the latest questions and answers.

Last Updated: May 29, 2025

[RETURN TO HOTMA HQ](#)

Presentation Changelog

Question: As HUD issues further guidance, is NCHM going to be updating the course presentation?

Answer: Yes, NCHM is dedicated to providing our participants with the most up-to-date and reliable information available, especially during the lead-up to HOTMA going into effect. HUD will likely clarify some lingering questions and issue guidance, and NCHM is ready to modify our materials to reflect this new information. NCHM has launched the [HOTMA Compliance Changelog](#), tracking all important changes to the HOTMA Compliance presentation.

Question: I see the newest changes, and they impacted a session I attended. Can I get an updated presentation for future reference?

Answer: NCHM will provide past participants with updated presentations as they are completed. These will be disseminated via email, so please be on the lookout for HOTMA update emails containing these updated files.

HUD Guidance and Notices

Document: Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

[PDF Download Link](#)

Implementation Deadlines

Question: When is the compliance deadline for HOTMA?

Answer: The deadline is currently a moving target. For Public and Indian Housing programs, the deadline to comply with income and asset provisions is not yet set. The initial deadline was 1/1/2025, but HIP will not be ready in time to accommodate this.

Multifamily Programs have a compliance date of 1/1/2026.

HOME, HTF, and HOPWA Programs have a compliance date of 1/1/2026.

Question: If we have already processed ARs effective in 2024 and 2025, and we have not yet implemented HOTMA, will we have to correct them?

Answer: HUD will not penalize sites for HOTMA-related discrepancies from 1/1/2024 through 7/1/2025.

Family Composition

Question: Are foster children and foster adults listed on the certification?

Answer: Yes. Foster adults and foster children are members of the household. They will be considered when determining appropriate unit size and utility allowance. Under HOTMA, HUD clarifies that foster adults

and foster children are no longer considered members of the assisted family and as such, their income and assets are excluded.

Income

Question: Is it true that HUD now requires only 2 paystubs to calculate annual income from employment?

Answer: Yes, but if 2 paystubs do not reflect an accurate accounting of the member's annual income, you may request more.

Question: Are car payments or car insurance paid by someone outside of the household considered "in-kind" donations?

Answer: No, those are examples of bills paid on behalf of a family member and would continue to be counted as income. In-kind donations are things like personal items, toiletries, clothing, etc. The value of these recurring contributions will be excluded from income if the items were donated by food banks or similar organizations.

Question: Our property is layered with HUD Section 8 and LIHTC. If the way we determine income changes due to Section 8 allowing a "look-back" at the previous year, would that change also apply to LIHTC?

Answer: Not necessarily; it is important to know how your state housing finance agency is implementing HOTMA for LIHTC. Keep in mind that

looking back at last year's income is only as good as the current circumstances. If something has changed or there is a known anticipated change, you must take that into consideration.

Question: How should income be calculated for someone that works for the school system and then gets unemployment in the summertime? Should we process IRs?

Answer: The correct approach is to pro-rate the income. Include the employment income for the school year and unemployment for the summer in one certification. This is also the correct approach for other forms of known seasonal employment.

Question: HOTMA's new Safe Harbor provision allows for the use of "means-tested verifications." Are we required to accept these, or can we continue to obtain traditional third-party verifications?

Answer: The language used is that sites "may" accept means-tested verifications (LIHTC, WIC, SNAP, etc.). Sites are allowed to continue verifying using traditional third-party verifications. NCHM recommends that you do your own work and include acceptable forms and methods of verification in written policies and procedures.

Question: When is the last day a HOME or Public Housing participant can begin utilizing the Earned Income Disregard (EID)?

Answer: The last day participants were eligible to begin an EID was 12/31/2023. They are still entitled to receive 24 months of the benefit; that is why the EID program officially sunsets on 1/1/2026.

Assets

Question: Is it true that we must evict households that have assets worth more than \$103,200 upon Annual Recertification?

Answer: No. O/A's have the discretion to choose whether or how to implement the new asset limitations upon Annual Recertification.

Question: My software will not allow me to use the new Passbook Savings Rate at this time. What are my options?

You only need to use the new Passbook Savings Rate if your site has implemented HOTMA. Until then, continue to use 0.06% as the Passbook Savings Rate until you have become HOTMA-compliant. You will not be penalized for this.

Question: Is it true that we will not be required to obtain a six-month average balance for each checking account on a certification?

Answer: Yes, the cash value of a checking account will now be its current balance.

Question: What is the Passbook Rate for 2024?

Answer: It has been revised from 0.06% to 0.40%.

Question: What is the Passbook Rate for 2025?

Answer: It will be increased to 0.45%.

Question: If a Section 8 applicant household has assets that amount to \$51,600 or less in total cash value, do we allow a self-certification of assets for the move-in certification?

Answer: In subsidized programs, assets must be verified at least every three years. You may allow self-certifications in the intervening years when the total cash value is \$51,600 or less. NCHM recommends obtaining verifications at move-in to establish a baseline.

Question: Do sites have to allow self-certification of assets, or can they continue to require third-party verification?

Answer: The language says tenants “may” self-certify. If a site wants to continue to conduct third-part verification of all assets, it is important to treat everyone the same way. The verification procedures should be addressed in the written policies and procedures.

Question: Does the \$51,600 asset self-certification threshold apply to the LIHTC program?

Answer: The IRS considers the HOTMA final rule to supersede Rev Proc 94-65 and will allow for self-certification of assets when the cash value does not exceed \$50,000. NCHM recommends consulting with the applicable State Housing Finance Agency, as they may have more restrictive requirements in place.

Question: If someone owns real property that is physically unsafe and is cost-prohibitive to render safe, what kind of verification should we use to prove this?

Answer: There are many options to verify such information, and HUD requires O/As and PHAs to determine what would be sufficient verification of such circumstances, and to outline this in their policies.

Question: If a household's assets exceed \$51,600 in cash value, for which of those assets must we impute asset income?

Answer: Calculate imputed asset income for each asset that has an undeterminable amount of asset income (e.g.: homes, land, collections, recreational vehicles).

Question: What exactly do we need to verify to determine whether someone owns real property?

Answer: Ultimately, sites will need to determine a) whether the family has any interest in real property, as defined by state/local law; b) whether the family may legally occupy the real property, per state/local law; and c) whether the family has the legal authority to sell the real property under their state/local laws. You may also need to verify whether the property falls under one of HUD's or the site's own exceptions to these ownership rules when it comes to eligibility for assistance.

\$103,200 Asset Threshold/Disposed Assets

Question: Are we still required only to count disposed assets when the amount disposed exceeds \$1,000?

Answer: No. HOTMA eliminates any threshold to counting disposed assets. All amounts disposed will be reflected on the certification for two years from the date of disposal.

Question: What programs are subject to the \$103,200 asset cap?

Answer: The new rule is specific to HUD Section 8 PBRA and programs administered by PHAs, such as Housing Choice Vouchers. This includes Section 202/8 programs, and excludes PRAC programs.

Question: Are there restrictions on how a household may get rid of their assets in excess of \$103,200 in order to qualify for subsidy?

Answer: No, but keep in mind that applicants and tenants are still subject to the existing guidance regarding disposing assets for less than their fair market value. HUD offers ideas such as purchasing a piece of necessary property (such as a vehicle to be used for everyday transport), or placing it into an excluded asset under the household's control (such as an IRS-regulated retirement savings plan or an irrevocable trust).

Question: When a household has assets that exceed the \$103,200 threshold, can we allow them to self-certify that assets have dropped

below \$103,200, or do we need to third-party verify?

Answer: HUD allows families to self-certify this, however, NCHM recommends third-party verification to certify that a household's assets now total \$103,200 or less.

Question: If a tenant spends down their assets on something like an elaborate vacation, what documentation does the file need to verify it was spent?

Answer: HUD does not require verification of purchases made from assets. Your policies and procedures may include verification standards that are stricter than HUD's.

Question: Our site is Section 8 PBRA layered with LIHTC. Does the \$103,200 threshold apply to LIHTC?

Answer: Section 42 regulations have not been updated with regard to asset caps. When a site is layered, you must follow the most restrictive guidance; your site's Section 8 PBRA layer would be subject to the cap. Please consult your state housing finance agency for LIHTC guidance.

Question: Our site is electing to implement limited enforcement of the asset limitations upon recertification; we will grant affected households six months to cure their ineligibility. Will TRACS 203A have a method of monitoring these households so we can keep track of how far they are into their six-month period?

Answer: TRACS 203A updates are still in the works. For now, it will be your responsibility to track it.

Question: If we opt to delay termination of subsidy for six months for a household whose assets exceed the \$103,200 cap upon Annual Recertification, how much rent does that household pay during that time?

Answer: They continue to receive subsidy for the 6-month period.

Certifications, Leases, and Forms

Question: With the changes under HOTMA, sites will need new forms and leases. When will these be available?

Answer: We are patiently awaiting updated forms and leases from HUD. At this point in time, the only forms that have been updated for HOTMA are the HUD-50058 and the 9886 for PIH programs. All remaining forms are still awaiting approval from the OMB.

Question: Is it true that the HUD forms 9887 and 9886 will only need to be signed once after HOTMA is effective?

Answer: Yes, starting in 2025 with the new version of the forms, tenants will only be required to sign once per issuance of subsidy instead of annually.

Question: Will all tenants need to sign the new HOTMA-compliant lease, or is their original lease still valid?

Answer: All tenants will need to sign a HOTMA-compliant lease. Once the model leases have been finalized and released, NCHM will update this page.

Question: Do we still need to have a 9887 signed when a dependent turns 18 years old?

Answer: Yes.

Question: If a change triggers an IR under the new rules, must we continue to verify and incorporate ALL changes that have occurred since the last certification?

Answer: You must still VERIFY all changes whenever an IR is executed. Only incorporate the changes that warrant an IR in the new certification. For example, if a household experiences a 10% increase in earned income AND a 10% increase in unearned income, verify both changes, but only adjust the unearned income source.

Deductions

Question: Is there a cut-off on how many times a family can receive the 90-day hardship exemption for the child care deduction?

Answer: There is no HUD-imposed limitation on how many times a family may benefit from this hardship exemption, but sites should address how they evaluate whether hardships exist in their written policies and procedures.

Question: Since the definition of the health and medical care deduction has expanded, would things like vitamins be deductible?

Answer: The new language states it includes any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. NCHM recommends verifying with a doctor that items like vitamins are necessary to mitigate, treat, or prevent a condition. HUD has clarified that Exhibit 5-3 of the Handbook 4350.3 REV-1 is out-of-date and that they will be updating it.

Question: Who qualifies to have their disability and health and medical care expense threshold phased-in to 10% over three years?

Answer: The phase-in is only for existing tenants who are currently receiving assistance and taking the deduction(s) under the current 3% threshold. It does not apply to new move-ins, or to households who are not benefiting from the deduction as of 12/31/2023.

EIV

Question: How do the new rules impact the use of the Income Discrepancy Report in EIV?

Answer: HUD intends to update the discrepancy logic within EIV to conform to the requirements of the final rule. Owners are still required to generate the reports but are not required to investigate discrepancies resulting from the Income Discrepancy Reports until HUD updates the discrepancy logic.

Question: Does HOTMA change how we should be running our master EIV reports?

Answer: Please see Table J1 on pages 114-118 of Notice H 2023-10 (Rev. 2/2/2024) for revised guidance on EIV master reports.

Question: HOTMA indicates we do not need to run the EIV Income Report during IRs. Do we still need to run it after a household begins receiving subsidy through a MI or IC?

Answer: Yes. HOTMA only removes the obligation to run EIV during IRs. Going forward, all programs must run the EIV Income Report no later than 120 days after the date of MI or IC.

General Questions

Question: How will HUD communicate new limitations, restrictions, and deduction amounts that are subject to annual inflationary adjustments?

Answer: They will be posted to HUDUser.gov by no later than September 1 of the year prior to their effective date. [HUD has already released the adjustments for 2025.](#)

Question: What programs does HOTMA impact?

Answer: HOTMA impacts the following:

- Public Housing programs, including the Housing Choice Voucher (HCV) Program
- Moving to Work (MTW) Agencies
- Section 8 Project-Based Rental Assistance (PBRA) programs
- Rental Assistance Demonstration programs (RAD)
- Section 202/811 Project Rental Assistance Contracts (PRACs)
- Section 202/162 Project Assistance Contracts (PACs)
- Senior Preservation Rental Assistance Contracts (SPRACs)
- Section 811 Project Rental Assistance programs (PRAs)
- HOME Investment Partnerships programs
- Housing Trust Fund programs (HTF)
- Housing Opportunities for Persons With AIDS programs (HOPWA)
- Section 8 SRO Moderate Rehabilitation programs (Mod Rehab)
- Rural Housing Services*
- The Low Income Housing Tax Credit (LIHTC) program*

**To the extent that the respective governing agency uses the Section 8 definition of income.*

Question: How does HOTMA impact LIHTC?

Answer: Since the LIHTC program borrows from HUD guidance, the IRS has confirmed that HOTMA will impact the LIHTC program. We anticipate

that further guidance from the IRS in the coming months will provide some clarity to those impacts.

Question: So HOTMA's Final Rule is final...right?

Answer: Since the publication of the Final Rule, we have received additional guidance pertaining to implementation during this transition period. We anticipate further changes, guidance, and more in the coming months from HUD. As more information is released, we will be your partner in understanding how these changes impact your organization.

Question: Will NCHM be offering HOTMA-specific training?

Answer: Yes, our first HOTMA training session ran on August 17-18, 2023 and we plan to have sessions at least monthly in 2025.

Additionally, NCHM will provide updates on HOTMA news via blog posts, FAQ entries, and generally updating the HOTMA HQ page, so check in frequently.

Question: How do we handle applicants on our waiting list who will be ineligible due to new asset restrictions?

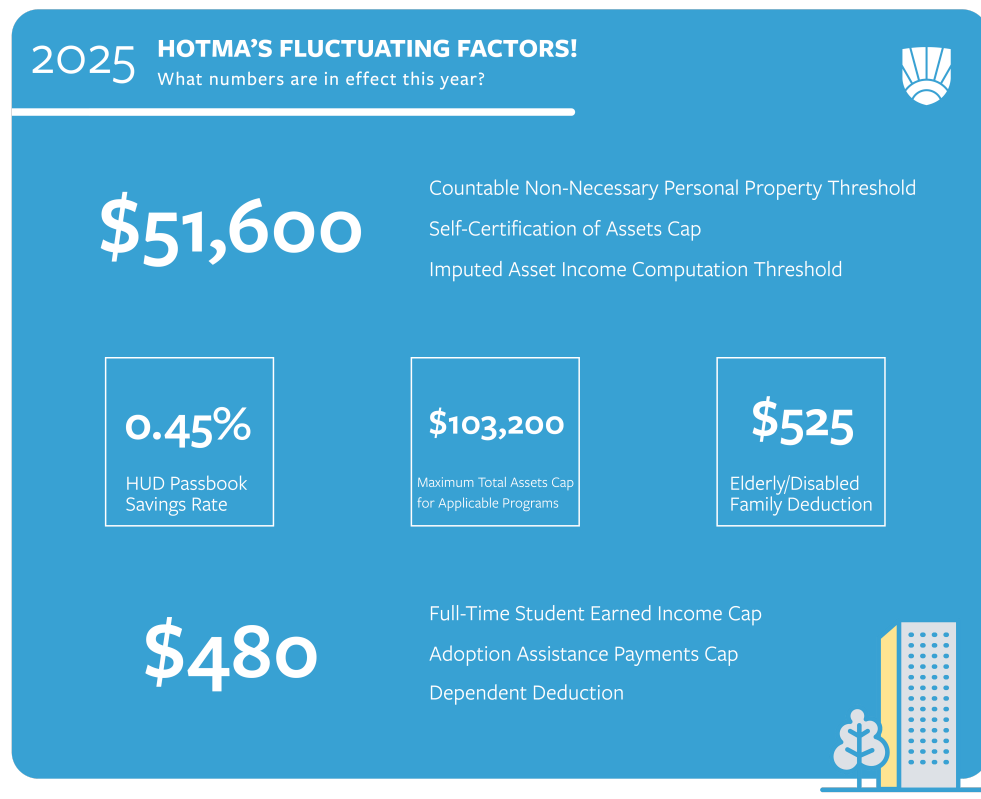
Answer: The O/A or PHA must decide how to communicate the new asset restrictions to applicants on the waiting list. There is no option to grandfather in these applicants.

Question: Will HOTMA changes be included in the next revision of the HUD Handbook 4350.3?

Answer: For now, changes under HOTMA are will be communicated through HUD and PIH Notices. The HUD Handbook 4350.3 will be undergoing extensive revision to incorporate all changes that have happened since 2013 – this will take some time.

Supporting Documents

HOTMA's Fluctuating Factors



FAQ CATEGORIES

[Presentation Changelogs](#)

[HUD Guidance and Notices](#)

[Implementation Deadlines](#)

[Family Composition](#)

[Income](#)

[Assets](#)

[\\$100,000 Asset Threshold/Disposed Assets](#)

[Certifications, Leases, and Forms](#)

[Deductions](#)

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Section 103: Over-Income Limits for Public Housing Families Fact Sheet

Section 103 creates new limitations on program participation for families residing in public housing that remain over-income (OI) for 24 consecutive months. After a 24 month grace period, PHA policy may allow OI families to continue to live in a public housing unit paying an alternative rent. If the PHA does not adopt such a policy, the PHA must terminate tenancy of the OI family within six months of the final notification.

The new rules are implemented through two new sections in the public housing regulations: **24 CFR 960.507 Families exceeding the income limit**, and **24 CFR 960.509 Lease requirements for non-public housing over-income families**. Related definitions can be found in 24 CFR 960.102(b).

The provisions implementing section 103 will be effective March 16, 2023. All PHAs must fully implement OI policies no later than June 14, 2023. There are **no exceptions** to the income limitation on public housing program participation.

Over-income (OI) limit: set by multiplying the very low-income level for the applicable area by a factor of 2.4, a limit equal to approximately 120% of the AMI. OI procedures are triggered by **annual or interim reexaminations**. During the reexamination, if the family is determined to be OI, the OI notification process begins.

Over-income (OI) family: families whose income exceeds the OI limit, including families during the grace period or before program termination or execution of a non-public housing over-income lease. These families retain all of their rights and obligations as public housing program participants.

Non-public housing over-income (NPHOI) family: a family whose income exceeds the OI limit for 24 consecutive months and remains in the unit paying the alternative non-public housing rent.

These families must have signed an NPHOI lease and are no longer public housing program participants. NPHOI families may not participate in public housing resident councils or programs for low-income or public housing participants. NPHOI families cannot receive a utility allowance from the PHA, be subject to income reexaminations, or be required to comply with Community Service and Self-Sufficiency Requirements.

Alternative Non-Public Housing Rent: A remaining NPHOI family must be charged a monthly rent equal to the higher of: the applicable fair market rent (24 CFR 888(A)), or the amount of the monthly subsidy provided for the unit (HUD will publish annually).



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Section 103: Over-Income Limits for Public Housing Families Fact Sheet

Falling below OI limit: If the PHA determines (in an interim or regular reexamination) that a family's income has fallen below the OI limit at any time during the 24-month grace period the family will remain public housing program participants and return to regular income reexamination periods. If the family becomes OI again, the PHA begins a new 24-month grace period.

Notices: PHAs must give OI families 3 notices, each within 30 days of the income examination that determines the family is, or remains, OI: at the initial determination of OI status, following the reexamination at the conclusion of the 1st 12 months of the grace period, and at the conclusion of the 24 month grace period.

All notices must be provided in writing and state what actions will be taken as required under the PHA's OI policy in the Admissions and Continued Occupancy Policy (ACOP). If applicable, the notice must include the alternative rent amount. All notices must provide information on the family's right to a grievance hearing.

Policies: PHAs must have a continued occupancy policy detailed in its ACOP to either:

- Require OI families to execute a new NPHOI lease within 60 days of notification and charge the family the alternative non-public housing rent, or
- Terminate the tenancy of the family no more than 6 months after the notification.

PHAs may choose to adopt a waitlist preference for NPHOI families who again become income-eligible for readmission to the public housing program. These families would then reapply. OI families who have vacated public housing are not eligible for this preference.

Reporting: The PHA must submit a report annually that specifies:

- The number of OI families residing in a PHA's public housing as of the end of the calendar year. This report will be pulled by HUD via the form HUD-50058.
- The number of families on the waiting lists for admission to public housing. This information will be submitted through the Operating Fund Web Portal beginning January 1, 2024.

Related Resources:

- [Supplemental Guidance for Implementation of Section 103; Limitation on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#)
 - » See Appendix for directions on calculating the OI limit.
- [Implementation of Section 103: Over-Income Limits for Public Housing Families recorded training, presentation, and transcript](#)
- [Sample NPHOI lease](#)
- [Sample OI Notices](#)

Re: [REDACTED] First Party Pooled Trust for the benefit of
[REDACTED]

Dear Sir or Madam,

I am writing regarding [REDACTED], a Metro Housing Section 8 Voucher recipient who recently received a Recertification Packet. I am counsel for PLAN [REDACTED] which is trustee of the [REDACTED] Special Needs Pooled Trust, an irrevocable special needs trust which holds an account for [REDACTED] benefit.

In October 2023, [REDACTED] established an irrevocable pooled trust account with the [REDACTED] Special Needs Pooled Trust. The [REDACTED] Special Needs Pooled Trust is a totally discretionary, qualifying Medicaid pooled trust, as permitted under SSI regulations. Further, under federal housing regulations, such trusts are not considered countable assets and disbursements of principal are not considered countable income.

Irrevocable discretionary trusts are excluded from net family assets pursuant to HUD regulation 24 CFR s. 5.603(b), which states:

In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset as long as the fund continues to be held in trust. 24 CFR s. 5.603(b)

Undistributed income from irrevocable discretionary trusts are also excluded from countable annual income at 24 CFR s. 5.609(b)(2), which states that annual income **does not include:**

For an irrevocable trust...outside the control of the family or household...distributions of the principal or corpus of the trust. 24 CFR s. 5.609(b)(2)

[REDACTED] trust account is irrevocable and is not under the control of [REDACTED] or any other member of her family and therefore, meets the asset exemption above. In addition, under no circumstances does PLAN make any distributions of income to or for the benefit of [REDACTED]. All distributions are from principal and therefore, do not constitute countable income under the HUD regulations.