



HOTMA
Policy Impact and
Analysis Workshop

PARTICIPANT GUIDE



Professional
Development

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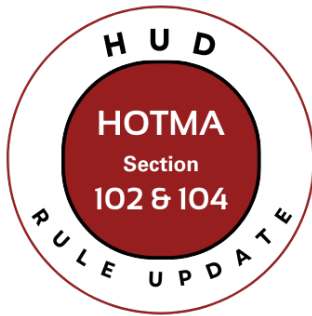
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The Housing Opportunity Through Modernization Act of 2016 (HOTMA) introduced significant amendments to the United States Housing Act of 1937.



This workshop delves into the specific changes brought about by Section 102 which addresses changes to income reviews and Section 104 that sets asset limits for HCV and PH applicants and participants.

The final rule, effective January 1, 2024, PHAs/Owners have until January 1, 2025 to become in compliance with HOTMA.

REGULATIONS

Changes as a result of HOTMA

- **Earned Income – 5.100**
- **Annual Income Definition – 5.609(a)**
- **Annual Income Exclusions – 5.609(b)**
- **Annual Income Calculation & Reexaminations – 5.609(c)**
- **Adjusted Income Mandatory Deductions – 5.611(a)**
- **Adjusted Income Annual Deductions – 5.611(b)**
- **Adjusted Income Financial Hardship Exemptions – 5.611(c)**
- **Income reexaminations – 5.657**
- **Enterprise Income Verification System – 5.233**
- **Net Family Assets Definition – 5.603**
- **Asset restriction – 5.618**

HUD NOTICE PIH 2023-27/H 2023-10

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))**

Housing and PIH Notices

- **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.

DEFINITIONS

24 CFR 5.403(1): Family Definition

- ii. **An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, and is homeless or is at risk of becoming homeless at age 16 or older;**

24 CFR 5.603: Earned Income:

- **Wages, tips, salaries, other employee compensation, and net income from self-employment**
- **Self-employment includes:**
 - **Independent contractor: An individual who qualifies as an independent contractor, instead of an employee, under IRS federal income tax requirements and whose earnings are subject to the self-employment tax**
 - **Day Laborer: 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**
 - **Seasonal Worker: An individual who is hired for a short-term position where employment begins about the same time each year. Typically, they are hired to address seasonal demands**

24 CFR 5.609(a) Income from Assets

- PHA will Calculate actual returns (if possible), if not possible and assets are over the current HUD published imputed amount, the PHA must impute income for the asset (based on current passbook savings rate)

24 CFR § 5.603: Non-necessary property

This includes items that are not essential for daily living. Examples of non-necessary personal property include:

1. Campers
2. Motorhomes
3. Travel trailers (if not used for day-to-day transportation)
4. All-terrain vehicles (ATVs) that are not for regular transportation
5. Bank accounts
6. Financial investments
7. Recreational boats
8. Expensive jewelry without religious or cultural value
9. Collectibles
10. Equipment not generating business income
11. Luxury items

Exclusion Threshold: Non-necessary personal property is excluded if the combined value of such property does not exceed \$50,000. This threshold is adjusted annually for inflation

24 CFR 5.603(b) 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

25 CFR 5.603(b) Para (3) and (4): Excluded net family assets:

- (i) The value of necessary items of personal property;
- (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers);

- (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals;**
 - (iv) 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;**
 - (v) 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 family member being a person with a disability;**
 - (vi) 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, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government.**
 - (vii) Interests in Indian trust land;**
 - (viii) Equity in a manufactured home where the family receives assistance under [24 CFR part 982](#);**
 - (ix) Equity in property under the Homeownership Option for which a family receives assistance under [24 CFR part 982](#);**
 - (x) Family Self-Sufficiency Accounts; and**
 - (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.**
- (4) 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 trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.**

Medical Expenses

- **Definition/Glossary update:**
 - **Medical expenses incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body and medical insurance premiums and long-term care premiums that are paid or anticipated during the period**

for which annual income is computed and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 10% of annual income.

Inflation Adjustments

HUD will annually publish the eight inflation-adjusted items listed below no later than September 1, and published at [HUDUser Web site](#).

- **Net Family Assets**
- **Imputed Assets**
- **Threshold for non-necessary personal property**
- **Asset Self certification threshold**
- **Mandatory deductions for Elderly and Disabled Families**
- **Mandatory deduction for a dependent**
- **Income Exclusion for dependent Full-Time Students**
- **Income Exclusion for adoption assistance payments**

The revised amounts will be effective on January 1 of the following year starting January 1, 2025.

Any amounts listed in this plan as “adjusted annually for inflation” will reference current the HUD published amount.

POLICY SAMPLES

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)

PHAs must attempt to gather third-party verification of SSN prior to admission

Option: to accept a tenant declaration and a third-party document with the applicant's name printed on it to satisfy the requirement.

Policy Consideration: When accepting a tenant declaration of SSN, PHAs must:

- 1. State the circumstances in which they will resort to using tenant declaration of SSN in their ACOP/Admin Plan**
- 2. Review the Failed SSA Identity Report monthly to identify any participants whose identity is not verified.**

Sample Policy

PHA requires that each family member (except non-eligible family members in mixed families) provide their Social Security number (SSN) and proof that the SSN belongs to that person.

If a member of the family is unable to provide a Social Security card or other evidence of their SSN, *PHA* will accept a document stating the person's name and a declaration from the person stating 1) why they cannot obtain their Social Security card and 2) what their SSN is.

If *PHA* has accepted any declarations as evidence of a SSN, *PHA* will review the Failed SSA Identity Report monthly to quickly identify any participants whose identity is not verified.

Assets

Policy update: Imputing Income from Assets

When net family assets are \$50,000 (adjusted annually for inflation) or less, PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$50,000 (adjusted annually for inflation), PHA will include the actual income derived from the assets if unavailable the imputed income based on the HUD passbook rate.

- Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.
- Assets:
Bank statements Discretionary Policies

When fully verifying assets, the PHA may choose to require more than one account statement for some or all interest-accruing accounts. tr

Policy option: Self-certification of net family assets

Accepts self certifications:

- Required to fully verify net family assets every three years.
- Families can also self-certify that they do not have any present ownership interest in any real property

Does Not Accept Self-Certification

- Must verify a family's net assets annually
- Accepting self-certifications streamlines reexaminations and may be less burdensome for the PHA.
- Accepting self-certification at admission may reduce the initial burden on applicants and speed up the leasing process.
- Consider the local needs and priorities in their communities along with the potential risks, including the requirement to repay funds for participants who are later found to be ineligible.

Sample Policies:

- Sample 1: It is the policy of *PHA* to determine each family's net family assets at the time of admission and at annual and interim reexaminations.

- **Sample 2: It is the policy of the PHA to accept a family's self-certification of net family assets equal to or less than the threshold above which imputed returns must be calculated on net family assets at admission (only for new admissions effective on or after PHA HOTMA Effective date) and at reexamination.**
- **Sample 3: Upon the agencies implementation of HOTMA, existing participants will be able to self-certify assets valued at of below the HUD threshold or less. PHA reserves the right to request additional documentation. Every three years, HPD will require third party verification of all assets, including those valued at below the threshold which imputed returns must be calculated on net family assets**
- **Sample 4: PHA will determine net family assets and anticipated income earned from assets at new admission. By fully verifying the information reported by the family, regardless of the family having assets that are equal to or less than the HUD threshold which imputed returns must be calculated on net family assets.**
- **Sample 5: After a family's assets of at or below the HUD threshold have been self-certified for two years in a row, at the next annual reexamination, PHA will fully verify net family assets and anticipated income earned from assets. After fully verifying the family's net family assets, PHA will resume accepting self-certification until the third annual reexam following the most recent full verification. If net family assets are greater than the HUD threshold assets will be fully verified.**

Asset Limits: Initial Eligibility

- **Families are ineligible for public housing or Section 8 assistance if they have net assets over \$100,000***
- **Families would be ineligible for assistance if they have real property suitable for occupancy that the family has ownership interest, legal right to reside in, and authority to sell.**

***Adjusted each year for inflation based on the Consumer Price Index- For Urban Wage Earners and Clerical Workers (CPI-W) starting in 2025**

Defining Property not suitable for occupancy

- **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 family does not have the legal right to reside in the property.
- The property is geographically located so that it creates a hardship for the family
- In 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.
 - 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.
- 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.

Real Property: Exclusions

- A manufactured home for which the family is receiving Section 8 assistance
- Families that receive homeownership assistance from the PHA
- 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.
- Any property owned by a family that includes a person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
- 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.

Real Property: Non-residential

- **If the family owns property that cannot be legally occupied as a residence, such as a commercial establishment (e.g., convenience store or retail establishment):**
 - **Considered unsuitable for occupancy**
 - **The real property's value under HOTMA is the net cash value of the real property after deducting reasonable costs that would be incurred in disposing of the family's real property:**
 - **Repayment of mortgage debt or other monetary liens on the real property**
 - **This amount would be considered annual income and in determining if the family has assets over \$100,000**

Asset Limits for Current Participants

- Total non-enforcement:**

PHAs/MFH Owners may choose not to enforce the asset limitation, if they establish a written non-enforcement policy.

Sample Policy:

The PHA has non-enforcement policy at re-examination for families with net assets over \$100,000 (adjusted annually for inflation) and for families with real property suitable for occupancy that the family has ownership interest, legal right to reside in, and authority to sell. This applies to all program participants prior to the PHA's implementation of HOTMA [add date if available].

- Enforcement**

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.

Sample Policy:

The PHA will enforce the asset limit policy for all families with net assets over \$100,000 (adjusted annually for inflation) and for families with real property suitable for occupancy that the family has ownership interest, legal right to reside in, and authority to sell.

The PHA will initiate termination or eviction proceedings within [six months] of the income examination that determined the family was out of compliance.

- **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.**
- **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.**
- **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.**
- **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-ineligible family for that PBV-assisted unit, and the PBV unit must be leased to an eligible family.

- **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.**

☐ Limited enforcement

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.

▪ **Sample Policy A:**

All participant families non-compliant with the asset limitation, the PHA/MFH Owner will provide families [six] months to cure noncompliance. Such families will be subject to termination or eviction proceedings due to non-compliance with the asset limitation should they fail to cure non-compliance.

Families will be required to demonstrate and provide proof of compliance within [six] months, families that fail to comply will be subject to termination or eviction proceedings due to non-compliance with asset limitations.

▪ **Sample Policy B:**

All families will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA/MFH Owner's policies.

Families will be required to demonstrate and provide proof of compliance within [six] months, families that fail to comply will be subject to termination or eviction proceedings due to non-compliance with asset limitations.

□ **Combined policy with exceptions**

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.

▪ **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

Child Care Allowance

- **Child Care allowance sample policy**

PHA will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities. Allowable expense cannot exceed earned income (except for when the expense is incurred to permit education or training)

Information to be Gathered

PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

- **Furthering Education**

PHA will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

- **Gainful Employment**

PHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Medical & Health Expenses and Attendant Care Or Auxiliary Apparatuses

24 CFR 5.611(A)(3)

Hardship policies: Unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses

Category 1: Phased in Relief

Sample Policy

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 examination prior to HOTMA implementation, will begin receiving the 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after the PHA implements HOTMA (this date will be publicly announced when available).

Families who receive this phased-in relief will have eligible expenses deducted as follows:

- 1st twelve months– in excess of 5% of annual income.
- 2nd twelve months – in excess of 7.5% of annual income.
- After 24 months – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for general hardship relief.

Category 2: Hardship

Policy considerations:

- Define what constitutes a qualifying hardship for General Relief.
- What types of circumstances that will allow a family to qualify for financial hardship and when such deductions may be eligible for additional 90-day extensions.
- Will you allow extensions of the 90-day hardship period while the family's hardship condition continues and the maximum number of 90-day extension periods (if establishing a maximum policy) that a family may receive.
- PHAs are not limited by HUD to a maximum number of 90-day extension periods.

- The PHA must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.
- PHAs must obtain third-party verification of the hardship or must document in the tenant 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.

Sample Policy Language

A family may request a hardship exemption for health or medical care expenses, reasonable attendant care, or auxiliary apparatus expenses.

- **Eligibility:** A family must demonstrate that their applicable expenses increased or they experienced a change in circumstances that resulted in a financial hardship, as defined below, that would not otherwise trigger an interim reexamination. This relief is available regardless of whether the family previously received health and medical deductions or is currently receiving, or previously received, a phased-in hardship exemption under 5.611(c)(1).
- A change in circumstances includes the need for new, qualifying, health/medical, reasonable attendant care and auxiliary apparatus expenses or an increase in the cost of qualifying expenses so that qualifying expenses exceed 5% of the family's annual income.
- The exemption ends when the circumstances that made the family eligible for the exemption no longer apply or after 90 days, whichever comes earlier.
- If the family wishes to request a successive 90-day period for the exemption, they must make that request within [5] days of the end of the current eligibility period and must demonstrate to the PHA why an additional period of exemption is warranted.

If PHA determines that the expense giving rise to the hardship exemption will not end within 90 days, PHA may grant one or more 90-day extensions in advance.

PHA will not consider [more than four (4) consecutive] requests for this hardship exemption. If PHA determines that the expense giving rise to the hardship exemption will not end within 90 days, PHA may grant one or more 90-day extensions in advance.

Verification:

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

PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine eligibility for a financial hardship exemption for unreimbursed health and medical care expenses.

PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care and/or reasonable attendant care and auxiliary apparatus costs or when a change in circumstances took place. Before placing bills and documentation in the tenant file, **PHA** will redact all personally identifiable information. **PHA** will comply with all federal nondiscrimination and civil rights statutes and requirements, including, but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504, and the Americans with Disabilities Act, as applicable. Among other obligations, this includes providing for reasonable accommodations that may be necessary for persons with disabilities.

Attendant Care

PHA will accept written third-party documents provided by the family. If family-provided documents are not available, **PHA** will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or canceled checks.
Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred and the anticipated period.

Auxiliary apparatus expenses will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the period for which the hardship is requested.
Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the period for which the hardship is requested.

In addition, **PHA** will verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work.

- The expense is not reimbursed from another source.

Family member(s) permitted to work:

PHA will verify that the expenses claimed enable a family member, or members, including the person with disabilities, to work.

PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work.

This documentation may be provided by the family. If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense enables a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible, the costs must not be reimbursed by another source.

The family is required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

Hardship Policy: Child Care Expenses

24 CFR 5.611(a)(4)

Provides hardships for families to maintain child care deduction if the family no longer has a member that is employed or furthering their education.

- **Family would have to demonstrate they are unable to pay their rent because of the loss of the childcare expense deduction**
- **Childcare is still necessary even though the family member is no longer employed furthering education.**

Sample Policy:

It is the policy of *PHA* to extend the child care expense deduction for additional 90-day periods if the family demonstrates that they are unable to pay their 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 employed, looking for work, or furthering his or her education.

***PHA* may extend the hardship exemption for additional 90-day periods based on family circumstances.**

PHA may terminate the hardship exemption if it is determined that the family no longer needs the exemption.

The child care deduction may continue to be necessary when the family has a hardship so that they continue to need child care.

Policy OPTION: Additional Deductions

24 CFR § 5.611(b)(1))

Additional deductions may be for any amount, established at the discretion of the PHA, which may be based on:

- PHAs may adopt additional deductions from annual income
- Those deductions cannot materially increase Federal expenditures
- PHAs that adopt permissive deductions would not be eligible to receive any program funding to cover the increased cost to the impacted program
- The PHA would have to identify the additional cost of the deduction to HUD and cover the cost
- Only PHAs, not owners that happen to be PHAs, may adopt additional deductions
- The amount of income received from a certain source, e.g. Guaranteed Basic Income, or of a particular type, e.g. \$500 for any family member that receives earned income.
- Families having certain characteristics, or
- The amount received by families or members during certain periods or from certain sources.

POLICY CONSIDERATIONS:

Public Housing: 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. The PHA must establish a written policy for such deductions.

HCV, moderate rehabilitation, and moderate rehabilitation Single-Room Occupancy (SRO) programs: **A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding or moderate rehabilitation program funding for subsidy costs resulting from such deductions.**

PHAs operating a public housing program may have previously adopted permissive deductions which incentivize or encourage self-sufficiency and economic mobility and may consider utilizing the same deductions in HCV, moderate rehabilitation, and moderate rehabilitation Single-Room Occupancy (SRO) programs.

For the HCV program, the PHA must include such deductions in its Admin Plan. For moderate rehabilitation, the PHA must establish a written policy for such deductions.

Safe Harbor Verifications

Determination of Income Using Other Means Tested Public Assistance

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 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.

Discretionary Policy

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 documentation must match the family composition in the assisted unit) and must state the amount of the family's annual income.

PHAs that choose to implement such a “Safe Harbor” determination must:

Establish in policy when they will accept Safe Harbor income determinations, including which programs they will accept income determinations from; and

Create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

PHAs must include in their ACOP/Admin Plan, as applicable, whether they will accept Safe Harbor income determinations, along with the accompanying policies described above, if applicable.

Sample Policy

PHA **may determine the family’s income prior to the application of any deductions based on income calculation information from other means-tested forms of federal public assistance programs or agencies, listed below, made within the previous 12-month period.**

The *PHA* will use third-party verification, which must include the family size and composition and state the family’s annual income. The verification must be dated within the time frame specified for the type of verification, including within the previous 12-month period for purposes of the specified means-tested forms of federal public assistance. The family members listed in the third-party verification must match the family composition in the assisted unit. The annual income need not be broken down by family members nor income type.

Given that annual income includes income earned from assets, when using Safe Harbor to verify a family’s income, *PHA* will not inquire as to a family’s net family assets, nor the income earned from those assets except with respect to whether the family owns assets which exceed the asset limitation in 24 CFR § 5.618.

If multiple determinations are available that meet all of the minimum verification criteria, *PHA* will use the most recent determination (if completed more than 3 months apart). If determinations were completed within 3 months, *PHA* will use them in the following order:

- **The Low-Income Housing Tax Credit program (26 U.S.C. 42).**
- **The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).**

(Can add more...minimum of 1)

If *PHA* cannot obtain the required third-party verification, or if the family disputes the determination, the *PHA* will calculate the family's annual income using the methods established in 5.609(c)(1) and (2) or in the applicable program regulations.

Income Exclusions

- ✓ Update exhibits/lists in plan.

24 CFR § 5.609 (b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under [§ 5.603\(b\)](#):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; 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.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(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.

(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 becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in [§§ 5.403](#) and [5.603](#), respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended ([20 U.S.C. 1087uu](#)), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other 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. 1002](#))) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this [paragraph \(9\)\(ii\)](#), means a grant or scholarship received from—

(1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under [26 U.S.C. 501\(c\)\(3\)](#);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this [paragraph \(9\)\(ii\)](#), does not include—

(1) Any assistance that is excluded pursuant to [paragraph \(b\)\(9\)\(i\)](#) of this section;

- (2) 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 pursuant to [paragraph \(b\)\(9\)\(i\)](#) of this section);
- (3) Gifts, including gifts from family or friends; or
- (4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in [paragraph \(b\)\(9\)\(ii\)\(E\)](#) of this section.

Annual re-examinations

24 CFR 5.609(c)

PHA will conduct a reexamination of family income and composition at least [annually].

This includes gathering and verifying current and prior year information about family composition, income, and expenses.

Based on this information, the family's income and rent will be recalculated.

Overview of Calculating Annual Income at Annual Reexamination

- **PHA will 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 for all non-COLA income.**
- **The PHA will review 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.**
- **Annual Re-examination: establishing patterns**
 - **PHA will review all family income at annual reexamination, PHA will exclude Lump-Sum Additions to Net Family Assets as non-recurring sources of income, but, at the subsequent annual re-examination if the PHA/MFH Owner can establish a pattern, the income should be included in the annual income calculation.**

COLA Increases

Cost of living increases will be applied the day after the announcement to all annual and interim re-examinations that have not yet been completed and will be effective January 1 or later of the upcoming year.

Interim re-examinations

24 CFR §§ 960.257(b)(6); 982.516(c)(4); and 882.515(b)(4) - (b)(5)

Reporting requirements	
•When and how families report changes	
Effective dates	
•Decrease •Increase •Timely •Late	
Thresholds for processing changes	
•Increases •Decreases •Special circumstances	

Sample Policy:

The PHA will conduct an interim reexamination within [a reasonable period of time=generally not longer than 30 days] after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with 24 CFR §§ 960.257(b)(6) and the following PHA policy.

- **Sample 1:**
 - **Families must report all changes in family income or composition in writing within [15 or another number] calendar [or business] days from the effective date of the change to be considered "timely."**
- **Sample 2:**
 - **Families are required to report all changes in earned and unearned income, assets, expenses, and family circumstances within [15 calendar days] of the date the change takes effect.**

Sample policies:

Effective Dates Decrease: Reasonable processing time

- **Generally, if reported [before the 15th of the month] the decrease will be effective on the first day of the month following the month in which the change**

was reported provided that all required documentation was submitted and verified.

- Generally, the PHA will process interim decreases within [14 calendar days] of the report effective on the first day of the month following the month in which the change was reported provided that all required documentation was submitted and verified.
- When a family does not report a change in a timely manner that will result in a decrease in tenant rent, PHA will implement the decrease no later than the first of the month following completion of the reexamination.

Effective Dates Increase: Reasonable processing time

Timely reporting related to an increase in rent: When a family reports a change in family income or composition that will result in an increase in tenant rent, the family must be provided a minimum of 30 calendar days' notice of the rent increase.

The rent increase will generally be effective on the first of the month following the end of the 30-day notice.

Families will be required to pay one month of increased rent if the family reports a decrease upon notification of the increase.

Untimely/Late reporting related to an increase in rent: Families that do not report changes in family income or composition within [15 or another number] calendar days from the effective date of the change, that will result in an increase to tenant rent, will have the rent increase implemented retroactively to the first of the month following the date of the change leading to the interim reexamination.

The family will owe a one-time payment equal to the difference in the rent paid and the new increased rent for each monthly rental period from the time of the change in circumstances through the date of the interim reexamination.

Effective Dates: Exemption for late reporting

However, PHA may make a determination that the late report was due to circumstances outside of the family's control and that the decrease will be implemented retroactively. Situations that may warrant a retroactive rent decrease might include late reporting due to (but not limited to):

- Medical emergency

- Natural disaster
- Wage theft by the employer
- Disruptions to PHA operations

When the determination is made that the late report was outside of the family's control, then a retroactive decrease may be applied beginning on the later of the first of the month following the date of the actual decrease in income or the effective date of the most recent admission, interim, or annual income examination. A rent adjustment cannot be retroactive to a date prior to the last income examination.

- In case of any rent adjustment, the family will be provided with clear, written communication after the interim reexamination that shows:
 - Any one-time charge or credit due to a retroactive adjustment.
 - The new monthly rent and date that rent is due.
- [HCV only] Funds will be returned to the housing provider. Funds will only be provided directly to a family if they no longer reside in the unit.

Processing re-examinations

24 CFR §§ 5.657(c)(3); 960.257(b)(3); 982.516(c)(3); and 882.515(b)(3)

PHA will generally perform an interim reexamination when the family reports a change in adjusted income that will result in an increase of 10% or more in annual adjusted income.

PHA will take into consideration not only changes to income but must also consider changes to eligible expenses, if applicable, to determine if an interim reexamination will be completed.

PHA Discretionary Policy Options:

- Unless the family had a previous interim examination where the family's income decreased during the same reexamination cycle (earned, unearned, or combined).
- 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.
- a decrease of [10%] or more of the family's annual adjusted income. Calculated percentage decreases less than [10%] will not be rounded up to the nearest whole number.

- **A 0% threshold applies when a decrease in family size results in a decrease in adjusted income.**

De minimis errors

24 CFR 5.609(c)(4)

Occur when a PHA'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 amount of de minimis error through rulemaking.

PHA ACTION:

On becoming aware of an error(s), the PHA must correct retroactive to the effective date of the action the error was made regardless of the dollar amount.

- PHA must repay or credit the family for overcharged rent.
- Families are not required to charge back rent if the family was undercharged.

Discretionary Policies:

- PHAs may choose how they will repay or credit a family the amount they were overcharged. PHAs/MFH must revise their Administrative Plans, ACOPs and Tenant Selection Plans as applicable to reflect how they will repay or credit if the family was overcharged tenant rent, including when a de minimis error is made.

POLICY: SAMPLE LANGUAGE

- Once the *PHA* becomes aware of the existence of an income calculation error, the error(s) will be corrected retroactive to the effective date of the action resulting in an error regardless of the dollar amount associated with the error.
- Families will not be required to repay *PHA* in instances where *PHA* miscalculated income resulting in a family being undercharged for rent. Once *PHA* becomes aware of the error the family will be provided with a 30-day notice of the increase to their rent portion.
- *PHA* will take corrective action to credit or repay a family if the family was overcharged tenant rent, including di minimis errors, in the income determination.

Public Housing

- **In the case of public housing residents, *PHA* will provide an immediate rent credit. If the amount of the credit would be more than the rent due *PHA* will provide payment to the family within [1 week] of becoming aware of the error.**

HCV

- **In the case of HCV residents, the family's rent portion will be temporarily adjusted down with additional HAP going to the property owner. *PHA* will send a letter to the family and the landlord prior to the change in payments notifying them of the change and the duration of the change. If the participant has vacated the unit, the credit will be mailed or provided to the family within [1 month] of becoming aware of the error.**

HUD 9886/7 Authorization for the Release of Information

MANDATORY POLICY

- **After January 1, 2024, applicants and participants must sign and submit the HUD-9886, as applicable, at admission and no later than the next interim or regularly scheduled income reexamination.**

POLICY CONSIDERATIONS

- **After January 1, 2024, once a public housing program applicant or participant has signed and submitted a consent form, they do not need to resign a subsequent HUD-9886 at the next interim or regularly scheduled income examination except under the following circumstances:**
 - **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.**

DISCRETIONARY PHA POLICY:

- **PHAs may establish policies around when family members must sign the consent forms when they turn 18 between reexaminations.**
- **For members turning 18 between re-examinations, when will the PHA have them sign?**

SAMPLE LANGUAGE

PHA requires that each family member above the age of 18 sign a HUD- 9886/7 form to authorize the release of certain information to the PHA on admission.

At each annual or interim reexamination, *PHA* will determine if any family member turned 18 and has not yet signed the HUD-9886 form. Such a family member will be required to sign the appropriate form at the reexamination.

Revocation of consent

24 CFR 5.232(c)

MANDATORY POLICY

The executed consent form (Form HUD-9886) will remain effective until the family is denied assistance, the assistance is terminated, or if 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 ACOP / Admin Plan policy that the 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 must notify their local HUD office when an applicant or participant family member revokes their consent.

POLICY CONSIDERATIONS

- **Revocation of consent or refusal to sign the consent form prohibits the PHA from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income.**
- **PHAs must use EIV in its entirety, including the use of all required reports, to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs are not required to use EIV to verify tenant employment and income information during an interim reexamination.**
- **Without consent PHAs will not be able to process interim or annual reexaminations of income, including when a family's income decreases.**
- **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.**
- **Revocation of consent –discretionary policy**

DISCRETIONARY POLICY

- The PHA may establish a policy that revocation of consent will result in denial or termination of assistance or admission.
- 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.
- If the PHA adopts such policies, they must be included in their ACOP/ Admin Plan.

SAMPLE LANGUAGE

The executed consent form (Form HUD-9886) will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent.

Families have the right to revoke consent by notice to *PHA*, however, revoking consent will result in termination or denial of assistance.

Zero Income Procedures

24 CFR § 5.609(b)(24)(vi); 24 CFR §§ 5.657(c)(3); 960.257(b)(3); 982.516(c)(3); and 882.515(b)(3)

PHAs must not assign monetary values to non-monetary in-kind donations received to calculate annual income.

PHAs may only perform interim reexaminations due to increases in annual adjusted income that comply with 24 CFR §§ 5.657(c)(3); 960.257(b)(3); 982.516(c)(3); and 882.515(b)(3).

DISCRETIONARY POLICY

PHAs are not required to conduct periodic zero income reviews. However, PHAs may continue to conduct such reviews, as recommended by HUD.

PHAs may need to update their zero income policies, procedures, and forms to comply with HOTMA.

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 in the form HUD-50058.

HUD EIV SYSTEM

PHAs must use EIV, in its entirety, to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination.

PHAs are required to use the following reports from the EIV System: Debts Owed & Termination, Deceased Tenants, Existing Tenant Search, Failed EIV Pre-Screening, Failed SSI Identity Test, Identity Verification, Multiple Subsidy, New Hires, No Income Report by HHA or SSA, No Income Reported on 50058, Summary of Household Information.

Sample 1:

PHA will use HUD's verification hierarchy when verifying each household's income, assets, deductions, and expenses.

PHA will access the EIV system and obtain an Income Report for each household during annual recertifications.

Sample 2:

PHA will not use the EIV system during interim reexaminations.

Sample 3:

PHA will not use the EIV New Hires report between annual reexaminations given the *PHA's* policy to not include earned 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 since the last annual reexamination.

Sample 4:

PHA will review the EIV New Hires report for households that have an interim reexamination to decrease rent.

PHA will advise families that if it is later determined that a family inaccurately reported income during an interim reexamination, the family may owe the *PHA* for any miscalculation in rent based on the family's incorrect reporting.

Resources

- [HOTMA - HUD Exchange](#)
- [HOTMA Resources | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)
- [PIH 2023-27/H 2023-10](#)
- [MFH List Discretionary Policies Implement HOTMA-Updated02012024.pdf \(hud.gov\)](#)
- [HOTMA Assets, Asset Exclusions, and Limitation on Assets Resource Sheet \(hudexchange.info\)](#)
- [eCFR :: 24 CFR 5.603 -- Definitions.](#)
- [Sample Admin and ACOP HOTMA Policies \(hudexchange.info\)](#)
- [HOTMA Income and Assets Fact Sheet \(hudexchange.info\)](#)