HOTMA

Housing Opportunity Through Modernization Act of 2016

Section 102 & 104
Income and Assets: Part 1

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HOTMA Income and Assets Series

Section 103: Over-Income Tenants: March 2, 2023

Section 102 & 104:
Income and Assets Part 1: May 9th

Section 102 & 104:
Income and Assets Part 2: May 16th

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Sections 102, 103, 104 Overviews

These sections make significant changes to the United States Housing Act of 1937, particularly those affecting income calculation and reviews.

- **Section 102** changes requirements related to income reviews for public housing and Housing Choice Voucher (HCV) programs.
- **Section 103** modifies the continued occupancy standards of public housing residents whose income has grown above the over-income limit.
- **Section 104** sets maximum limits on the assets that families residing in public housing and HCV assisted housing may have.

Income Revisions

Revises the definition in the 1937 Act of family income.

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 Additional 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

Agenda

- Income Inclusions and Exclusions
- Earned Income Disregard
- Deductions
- Hardship Exemptions for Certain Expenses

Key Points

- New definition of “income” — defined broadly with enumerated exceptions.
- The Earned Income Disregard is being phased out.
- Income deductions are changing.
- Health and medical expense deduction may be taken for expenses over 10% of annual family income. This change will be phased in over 2 years.
- There is a general hardship for health and medical expenses and a hardship exemption for childcare expenses.

Implementation of Sections 102 & 104

PHAs are affected by the final rule, which amends 24 CFR Part 5 (general HUD requirements, including definitions, income determinations, etc.).

- The effective date for sections 102 and 104 is January 1, 2024.
- PHAs must update Administrative Plan and/or Admission and Continued Occupancy Policy to reflect discretionary policies.
- Forms and related systems must be updated to reflect revisions made effective by the Final Rule.

INCOME

Definition, Inclusions, and Changes

Income Definition

All amounts, not specifically excluded, received from all sources by each household member who is:

- 18 years of age or older or
- The head of household or spouse of the head of household (any age)

Plus

- Unearned income by or on behalf of each minor dependent
- Actual income from assets
- Imputed return on assets over $50,000

24 CFR 5.609(a)

Income Definition — Changes from Prior Policy

HOTMA significantly revises the annual income regulations. The new rule:

- Removes the examples of included income sources and provides a broader definition of income.
- Includes an expanded and clarified list of income exclusions.

24 CFR 5.609(b)

Earned Income

Earned Income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment.

24 CFR 5.100

New Definitions

The following new definitions are meant to clarify income that should be included even if the source, date, or amount of the income varies.

- **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(b)(24) and 5.603(b)

Earned Income — What's Not Considered Earned Income

The following are not considered ***earned*** income:

- Any pension or annuity
- Transfer payments — payments or income received where no goods or services were offered
  - Welfare
  - Social Security
  - Government subsidies for certain benefits
- Any cash or in-kind benefits

24 CFR 5.100

INCOME

Exclusions

Income Exclusions — Overview

Generally, all income is included unless it is specifically excluded.

- Many exclusions are provided in the regulation.
- HUD will use the Federal Register to list types of funds that are excluded from HUD income calculations by other statutes.

See Income and Exclusions Resource Sheet for all exclusions provided in the regulation.

Income Exclusions — Examples

We will highlight some notable **changes** to the income exclusions rules in the next slides.

See the Income and Exclusions Resource Sheet for a complete list.

Exclusion: Non-recurring Income

"Non-recurring" income is excluded: Income received in the previous year that will not be repeated based on information provided by the family.

Examples:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days
- Direct federal or state payments for economic stimulus or recovery
- State or federal refundable tax credits or tax refunds
- Gifts for holidays, birthdays, or other significant life events or milestones
- Non-monetary, in-kind donations, such as food, clothing, or toiletries
- Lump-sum additions to net family assets, including but not limited to lottery winnings

24 CFR 5.609 (b)(24)(i) - (b)(24)(vii).

Exclusion: Certain Payments to Allow Individuals with Disabilities to Live at Home

- No change if the family already received such payment that was excluded from income
- Requirement that these payments offset the cost of services or equipment has been eliminated.
- Exclusion now covers all payments by 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.

Exclusion: Trust Distributions

Any distributions of a trust's principal, regardless of the form of the trust.

Distributions of income on the trust's principal used to pay the costs of health and medical care expenses for a minor are also excluded.

24 CFR 5.609(b)(2)

Exclusion: Veterans Aid and Attendant Care

Payments related to aid and attendance for veterans under 38 U.S.C. 1521.

24 CFR 5.609(b)(17)

Exclusion: Student Financial Assistance

Two categories of excluded student financial assistance:

1. Any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income including Bureau of Indian Affairs/ Education student assistance programs. All assistance in this category must be excluded from income. (For HCV program participants, amounts in excess of tuition and required fees are **not** excluded for head of household, co-heads, or their spouses, 23 or under, or who do not have dependent children.)

24 CFR 5.609(b)(9)(i)

Exclusion: Student Financial Assistance continued

2. Other Student Financial Assistance. This assistance may be excluded provided it is:

   - For the actual costs of tuition, books and supplies (including supplies and equipment to support students with disabilities), room and board, and other fees required and charged to a student by a higher education institute, including the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit expressly for a student who is not the head of household or spouse.
   - A grant or scholarship received from the federal government; a state, tribal, or local government; a private foundation registered as a nonprofit; a business entity; or an institution of higher education.

24 CFR 5.609(b)(9)(ii)

Exclusion: Financial Assistance to Part-time Students

The student financial assistance exclusion applies to both part-time and full-time students.

With both part- and full-time students:

- Student financial assistance assists the family with actual educational expenses.
- Assistance is limited to costs required and charged to the student by the school.

More information, see: <u>Student Aid and Financial Assistance Resource Sheet</u>

24 CFR 5.609(b)(9)(i) - (b)(9)(ii)

Calculating Student Financial Assistance Exclusions

1. Calculate the "actual covered costs."
2. Apply the Title IV HEA Assistance.
3. Subtract the actual covered costs from the total amount of Title IV HEA Assistance.
    a. If the amount of assistance excluded as Title IV HEA Assistance is equal to or exceeds the actual covered costs, none of the assistance included under "Other Student Financial Assistance" would be excluded from income. This is because this assistance would no longer be needed to cover actual costs and therefore would not meet the definition of Other Student Financial Assistance.
    b. If the amount of Title IV HEA Assistance is less than the actual covered costs, go to the next step
4. Exclude the amount of Other Student Financial Assistance up to the amount of the remaining actual covered costs (those not covered by Title IV HEA Assistance).

Note: This is example is for public housing residents or HCV program participant who is not head, co-head, or spouse 23 years of age or younger or without dependent children.

24 CFR 5.609(E)(1)-(E)(2)

Knowledge Check: Calculating Student Financial Assistance Exclusion

For a public housing participant:

Title IV HEA Assistance:	**$26,000**
Other Student Financial Assistance:	**$5,000**
Actual covered costs:	**$25,000**

1. **How much total student financial assistance would be excluded?**
2. **How much should count as income?**

Answer: Calculating Student Financial Assistance Exclusion

1. **$26,000**
2. **$5,000**

All assistance under Title IV HEA Assistance must be excluded from income — $26,000. This exclusion must be taken first. Other Student Financial Assistance could then cover any remaining actual covered costs. However, since actual covered costs came to $25,000, there were no remaining covered costs. Therefore the other student financial assistance — $5,000 — would be counted as income.

Knowledge Check: Non-recurring income

Which of these would likely be recurring, and therefore included as income:

a. **Outreach work for the 10 year census**

b. **Seasonal work as a snowplow driver**

c. **Tax credits**

d. **Lottery or other contest winnings**

Answer: Non-recurring Income

b. **Seasonal work as a snowplow driver (or lifeguard, etc.) would be included as income.**

EARNED INCOME DISREGARD

Earned Income Disregard

HOTMA **eliminated** the Earned Income Disregard

- EID will be available only to families that are eligible for and already participating in the program on the effective date of the final rule; no new families may be added.
- Families may continue receiving the benefits of EID until the allowed time frame expires.
  - » Within 2 years from the effective date of the final rule implementation (01/01/26), no family will receive the EID benefit.
- Families eligible to receive the Jobs Plus Earned Income Disregard pursuant to the FY2022 NOFO or earlier may continue to receive the disregard under the terms of the NOFO.

INCOME FROM ASSETS

Income — From Assets

In general, income from assets is considered income. If it is possible to calculate actual returns from an asset, the PHA must 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 current passbook savings rate, as determined by HUD.

**amount for 2024; after 2024 HUD will adjust based on CPI-W*

24 CFR 5.609(a)(2) and (b)(1)

Restrictions based on family assets

HOTMA changes the definition of "net family assets," to include more exclusions than the previous definition.

This will be covered in Part 2 of the training.

See the resource Asset Resource Sheet for the full list of exclusions.

INCOME

Deductions

Deductions — Adjusted Income

A family's adjusted income is the family income after any deductions as follows:

Mandatory Deductions:

- Dependents — $480* per dependent
- Elderly and Disabled Families — $525* per family
- Health and Medical Expenses
- Child Care Expenses

Permissive Deduction:

- Any permissive deductions implemented by PHA policy

** 2024 figures, adjusted annually for inflation and rounded to the next lowest multiple of $25.*

24 CFR 5.611

Deductions — Dependents

Deduct $480* for each household member

- Under 18 years of age, or
- Attending school or vocational training on a full-time basis, or
- 18 years of age or older and is a person with disabilities

Do not include the head of the household or his or her spouse.

**Adjusted by HUD annually for inflation (CPI-W) and rounded to the next lowest multiple of $25*

24 CFR 5.611(a)(1)

Deductions — Elderly and Disabled Families

Qualifying families deduct $525.

Adjusted by HUD annually for inflation (CPI-W) and rounded to the next lowest multiple of $25.

24 CFR 5.611(a)(2)

Deductions — Health and Medical Expenses

Deduction is the sum of the following, to the extent it exceeds 10% of annual income:

- Unreimbursed health and medical care expenses for elderly or disabled families.
- Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family, including the person with a disability, to be employed.
  - This deduction may not exceed the combined earned income of the adult family members who were able to work.

24 CFR 5.611(a)(3)(i)-(ii)

Deductions — Health and Medical Expenses — Changes

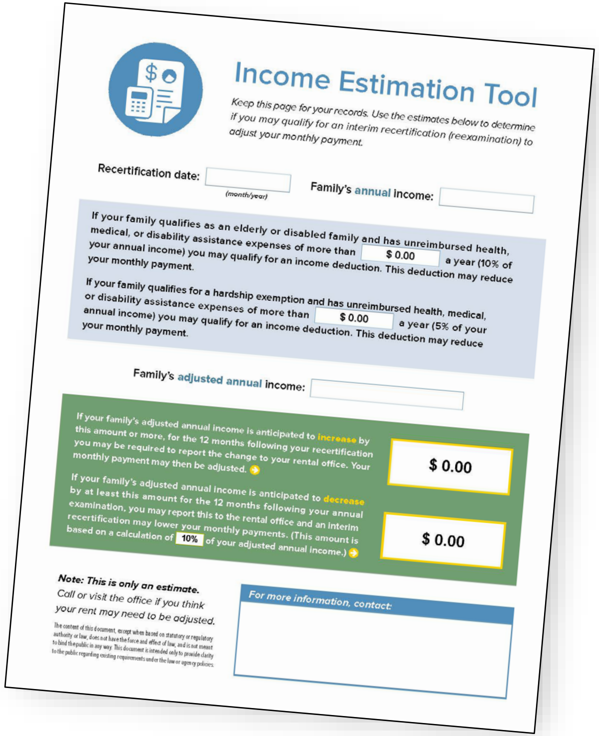
HOTMA increases the health and medical expense threshold from 3% to 10%.

- This deduction is now limited to the amount by which those expenses exceed 10% of the family's annual income.
- This increase in non-deductible health and medical expenses, which could result in a significant increase in adjusted income and rent, will be phased in over 2 years (5% in year 1, 7.5% in year 2).
- Further, the increase may be partially offset by the increased deduction for elderly and disabled families from $400 to $525.
- There are two types of hardship exemptions.

24 CFR 5.611(c)(1), 5.611(c)(2)

Estimate Hardship Exemption Threshold

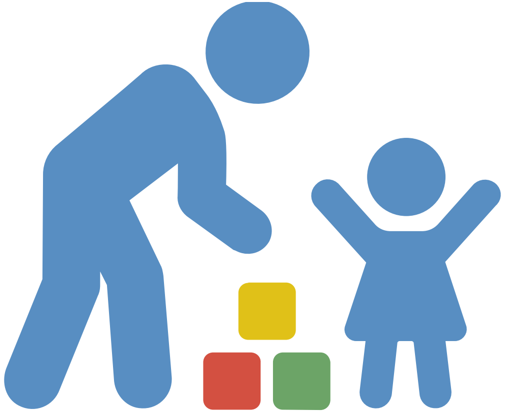
The Income Estimation Tool may be used with families to estimate at what amount of expenses they would qualify for an income deduction for health and medical expenses.



Deductions — Child Care

Any reasonable child care expenses necessary to enable a member of the family to be employed, further his or her education, or look for work.

- No threshold amount



24 CFR 5.611(a)(4)

Example: Calculating a Deduction for Child Care and Disability Assistance Expenses

HOH's earned income $15,000

Spouse's earned income + $ 6,200

Total income $21,200

The family has two children; a nine-year old daughter and a 16-year old son who has a disability. The care provider cares for both children and charges $200 per week. The care provider verifies that the cost for caring for the nine-year old daughter is $125 per week and the cost for caring for the 16-year old son is $75 per week. The child care expenses and disability assistance expenses enables both the HOH and spouse to work.

Child care expense	$125 x 52 =	$6,500
Total disability assistance expense	$75 x 52 =	$3,900

Total disability assistance expense ($3,900) less 10% of annual income ($2120) = $1780

Child care deduction (capped by earned income):	$6,200
+ Disability assistance deduction:	$1,780
Total deductions	$7980

Permissive Deductions

A PHA may adopt additional permissive deductions from annual income.

- PHAs must have a written policy that includes any deductions made available to families.
- PHAs will not be eligible for additional HUD funding based on application of these deductions.

24 CFR 5.611(b)

HARDSHIP EXEMPTIONS

Hardship Exemptions May Allow Extra Deductions

HOTMA specifies 3 types of hardship exemptions which may allow further income deductions for:

- Unreimbursed health and medical care expenses
  - Phase-in
  - Financial hardship
- Continued child care expenses
  - Extension

Hardship Exemptions — Health and Medical Expenses

The final rule provides two types of hardship exemptions for health and medical expenses:

1. Families already receiving an exemption (24 CFR 5.611(c)(1)(i))
2. Families who can demonstrate a financial hardship (24 CFR 5.611(c)(2))

Hardship Exemptions — Medical Expenses — Phase-In

Category 1: Families claiming a health & medical deduction prior to this final rule.

Relief will be phased in:

- 1st year: PHA deducts eligible expenses exceeding 5% of the family's income
- 2nd year: Deduct expenses exceeding 7.5% of the family's income
- 24 months after initial relief this hardship exemption expires. PHA will deduct only the expenses that exceed 10% of the family's annual income, unless the family qualifies for a new exemption under category 2.
    - The other deduction may be requested before the end of the 24 month transition period.

Hardship Exemptions - Medical Expenses - Financial

Category 2: Given that the change in threshold may result in financial hardship for families who were not receiving the deduction or may not even have been receiving housing assistance at the time this rule went into effect.

Eligibility for relief: A family must demonstrate that their applicable expenses increased or the hardship is a result of a change in circumstances (as defined by the PHA) that would not otherwise trigger an interim reexamination.

Form and duration of relief:

Deduction for total expenses exceeding 5% of annual income

- Relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.
- PHA may, at their discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

Example: Hardship Deduction for Medical Expenses

Family has been receiving a health and medical expense deduction.

Income:	$20,000
Unreimbursed expenses:	$2,500
3% of income:	$600
Previous Deduction:	$1,900 (amount over $600)

Under the 10% threshold, they would receive a deduction of $500.

With the Category 1 hardship exemption:

- Year 1 (deduction of eligible expenses that exceed 5% of income): $1,500 deduction
- Year 2 (deduction of eligible expenses that exceed 7.5% of income): $1,000
- Year 3 onward (deduction of eligible expenses that exceed 10% of income): $500

Examples of Hardships Qualifying under Category 2

Example: A family may have had qualifying medical expenses that did not exceed 3% when the rule went into effect, but whose health and medical care expenses then increased but did not exceed the new 10% threshold. This family will receive temporary hardship relief if their related expenses exceed 5% of the family's income

Example: The family's related medical expenses have not increased, but the family has had a decrease in income or increase in other expenses resulting in the financial hardship. The family will receive temporary hardship relief if their related expenses exceed 5% of the family's income.

Hardship Exemptions: Using Category 2 Following Use of Category 1

Category 2 may also include families that either:

- Qualified under Category 1 but exhausted that relief, or
- Chose to apply for relief under this category in the 2nd year of receiving a Category 1 deduction (expenses over 7.5%).

Eligibility / Process:

- Demonstrate that their applicable expenses increased or they had a financial hardship due to a change in circumstances beyond the transition to the higher threshold.
- PHA deducts expenses exceeding 5% of their income.
- Family will no longer be eligible for relief under the first category.

Period:

- Up to 90 days (unless extended). Family would then be subject to the 10% deduction threshold.

Hardship Exemptions — Child Care Expenses

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue the deduction.

Eligibility: The family must demonstrate that:

- They are unable to pay their rent without the deduction.
- The child care expense is still necessary even though the family member is no longer employed or furthering education.

24 CFR 5.611(d)

Hardship Exemptions — Child Care Expenses continued

Period:

- Exemption and resulting alternative adjusted income calculation must remain in place for up to 90 days.
- It may be extended at PHA discretion, for additional 90-day periods based on family circumstances.

24 CFR 5.611(d)

Child Care Hardship Example

Example: A family no longer qualifies for the child care deduction because the family member who was employed left their job to provide uncompensated care to an elderly friend who was severely ill.

The hardship exemption must remain in place for up to 90 days and could be extended based on the discretion of the PHA and family circumstances.

Child Care Hardship Exemptions — Requirements

PHA Policy: The PHA must have an established policy for determining a family's inability to pay the rent if they request a child care hardship exemption.

Family notification: The family must receive prompt notification in writing of the change in adjusted income and the rent due to the child care hardship exemption, and dates for when the hardship exemption will begin and expire.

24 CFR 5.611(e)(1) - (e)(2)

Questions and Answers

Related Resources

Income and Assets Part 1 Resources:

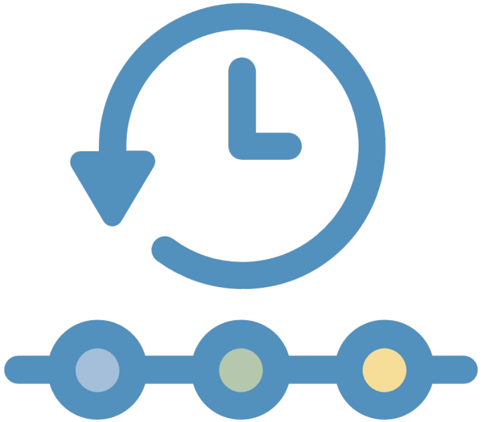
- Income and Assets Fact Sheet
- Income and Income Exclusions Resource Sheet
- Student Financial Assistance Resource Sheet
- Hardship Exemptions Resource Sheet (PHAs and residents)
- Income Estimation Tool and Directions

End of Part 1

Next training: May 16th

Section 102 & 104 Income and Assets Part 2:

- Asset Limitation
- Asset Exclusions
- Calculation of Income
- De Minimis Errors
- Interim Reexaminations



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