

Rent setting for Section 8 Housing Choice Vouchers, HUD-VASH, and other Rental Assistance Programs in Oregon: A User Guide

The HUD Oregon Field Office has heard from a multitude of partners that the very low rental vacancy rate in our region makes it hard for Section 8 voucher holders to find homes. We have also heard that the limits on Section 8 Housing Choice Voucher (HCV) and HUD-VASH (HUD-VA Supportive Housing) rents often put vacant homes just out of reach for voucher holders. This Frequently Asked Questions document aims to demystify the rules around voucher payment standards, and to provide some guidance for Public Housing Authorities (PHA) and other partners on how rent standards may be increased in certain circumstances.

Q: How does HUD set the limit on subsidy for the Housing Choice Voucher/"Section 8" program?

A: The HCV program provides a tenant-based voucher to a family. A tenant generally pays 30% of their household income toward rent and utilities, but may pay more if the rent for the unit they select is higher than the PHA's payment standard. The payment standard is the maximum subsidy a PHA can pay on behalf of a family, and a PHA establishes payment standards based on the HUD-established Fair Market Rents (FMR) for the area. The payment standards must be within an established range (90-110%) of the FMR. Exception payment standards that go above this 110% threshold can be adopted. More details on exception payment standards are below.

Q: What are Fair Market Rents?

A: Fair Market Rents (FMR) are published on an annual basis by HUD's Office of Policy Development and Research (PD&R) specifically by the Economic and Market Analysis Division (EMAD). Fair Market Rents are determined using a combination of surveys and the American Community Survey (ACS). The Fair Market Rents are established at the 40th percentile of gross rents in a jurisdiction, which in rural areas often consist of only one county but in more urban places will include a cluster of counties, called a Metropolitan Statistical Area (MSA).

The regulations that govern how Fair Market Rents are established can be found in 24 CFR 888.111.

Q: How are Fair Market Rents and Rent Schedules/HUD Subsidies Determined?

A: FMRs are used as a guide to determine the level of HUD subsidy for various HUD programs such as the Housing Choice Voucher (including HUD-VASH), Multifamily Assisted, and homelessness programs such as the Continuum of Care and Emergency Solutions Grant (ESG). However, the FMR is not in itself the standard used for determining eligible rents. Each HUD rental assistance program is governed by its own set of statutes and regulations which determine how much rent HUD will pay.

Q: What are Payment Standards?

A: Public Housing Authorities (PHA) adopt payment standard schedules which establish the HCV and VASH voucher payment standards amounts for each FMR area and unit size in the PHA jurisdiction. The regulation that governs Payment Standards is established in 24 CFR 982.503 – *Voucher tenancy: Payment standard amount and schedule*.

Q: What are “Basic Range” Payment Standards and Exception Payment Standards and how are these approved by HUD?

- **Payment standards between 90-110% of FMR (“basic range”):**

The PHA may establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that unit size. **HUD approval is not required to establish a standard amount in that basic range.** Therefore, if a PHA is currently using a payment standard at 90% of FMR and they wish to increase the payment standard up to 110% of the FMR, the PHA may do so without making a request to HUD.

- **Payment standards above the “basic range” – 110% to 120% of FMR:**

The PHA may request an exception payment standard above 110% of FMR, up to 120% of FMR, by submitting a request to the HUD Field Office. The Field Office has authority to approve such a request for a designated part of the FMR area, such as particular zip codes, neighborhoods, or townships, if it is supported by an appropriate program justification and market data. Please contact your HUD Portfolio Management Specialist for more information on this process. *Note: The HUD field office may also approve an “exception payment standard” on a case-by-case basis if required as a reasonable accommodation for a family that includes a person with disabilities.*

- **Payment standards above 120% of FMR:**

At the request of a PHA, HUD’s Assistant Secretary for Public and Indian Housing may approve an exception payment standard amount above 120 percent of FMR for a designated part of the FMR area. The Assistant Secretary must determine that: (a) the approval is necessary to prevent financial hardship for families; (b) such approval is supported by statistically representative rental housing survey data to justify HUD approval in accordance with the methodology described in 24 CFR 888.113; and (3) it must be supported by an appropriate program justification. These requests should be submitted to the local HUD Field Office who will perform a preliminary review prior to submitting to HUD Headquarters for final review. *Note: HUD HQ may also approve an “exception payment standard” on a case-by-case basis if required as a reasonable accommodation for a family that includes a person with disabilities.*

Q: Does the HUD-VASH program allow PHAs any additional flexibility in regard to payment standards?

A: Yes. The statute that appropriates funding for the VASH program provides HUD, in consultation with the VA, with authority to consider waivers or alternative program requirements specific to the VASH program. This

means that HUD Headquarters may consider waivers related to voucher payment standards for VASH. For more information on this authority, please contact your local HUD Field Office.

Q: Looking beyond the Section 8 voucher program, what about the payment standards for other HUD rental assistance programs such as ESG and COC?

A: Emergency Solutions Grant and Continuum of Care grant funds may be used to pay rental assistance and are also subject to FMR and rent reasonableness levels. Rent reasonableness reviews determine whether the rent to the owner is a reasonable rent in comparison to the rent of comparable unassisted units. In the CoC program a recipient or subrecipient of funds is allowed to pay rents up to the rent reasonable amount even if this is higher than the FMR. If rent reasonableness rates are lower than the FMR the maximum allowable contract rent amount is still capped at the rent reasonableness rates.

However, in the Emergency Solutions Grant, short- and medium-term rental assistance can be provided to eligible program participants only when the rent, including utilities (gross rent) for the housing unit does not exceed the FMR established by HUD for each geographic area and complies with HUD's standard of rent reasonableness.

HUD may consider waiver requests from ESG grantees to increase these rent limits. In some cases, HUD has approved waivers where the local PHA has chosen to adopt a payment standard above the FMR – either by exercising its authority to go up to 110% of FMR, or by instituting an exception payment standard above the 110% of FMR level. ESG and COC grantees should contact their HUD Community Planning and Development representative for more information.