

SAMPLE ADMIN AND ACOP HOTMA POLICIES

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This resource provides sample language that PHAs can use in their Admissions and Continued Occupancy Policy (ACOP) and/or Administrative Plan (Admin Plan) in compliance with the new HOTMA policies.



Mandatory (Non-discretionary) Policies are those prescribed in statute and by HUD, for which PHAs have no flexibility.



Discretionary Policies are areas where the PHA has flexibility to define policies, typically within a given set of parameters. They may be unique to the PHA and based on industry best practices or local community needs. These policies must still comply with federal, state, and local laws as well as HUD guidance. Discretionary policy decisions must be included in an approved ACOP or Admin Plan, as applicable.



Note: All sample policies in the discretionary sections are provided as examples. Inclusion does not denote a suggestion, it is only intended to provide an example of how the policy may be worded. Further, when there are specific options within an example, that option is provided in brackets to illustrate that it may be changed by the PHA.

For example, [5 calendar days] could be updated to “10 business days” or another number.

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ASSET LIMITATION

ASSET LIMITATION FOR NEW ADMISSIONS

24 CFR 5.618



Mandatory Policy

PHAs must deny admission of an applicant to the public housing or Housing Choice Voucher (HCV) program if they are determined to not meet the requirements of the asset limitation. The asset limitation has two components: families must not have 1) Net family assets that exceed \$100,000 (adjusted annually for inflation); and/ or 2) A present ownership interest in, a legal right to reside in, and the effective legal authority to sell (based on laws of the state or locality in which the property is located), real property that is suitable for occupancy by the family as a residence.

Policies should indicate the general parameters PHAs will use when determining whether the location of owned real property constitutes a geographic hardship (to determine whether it is considered suitable for occupancy).

CONSIDERATIONS

The calculation of net family assets excludes many types of assets, such as necessary personal items and retirement accounts.

Exemptions - The real property restriction does not apply to:

- A family that receives assistance for the property under the HCV program.
- Property jointly owned with and occupied by another person not part of the assisted family.
- Victims of domestic violence, dating violence, sexual assault, or stalking.
- A property that the family is offering for sale.

A family may also be able to show a property is not "suitable for occupancy." For example, if it is zoned for commercial use only or does not meet the family's disability-related needs.

See the [Assets, Asset Exclusions, and Limitation on Assets Resource Sheet](#) on HUD Exchange for more information on excluded assets and real property, and additional examples of properties that are not suitable for occupancy.

SAMPLE LANGUAGE

It is the policy of the **ABC HOUSING AGENCY** to deny admission to applicants that are out of compliance with the asset limitation found at 24 CFR 5.618. Before denying an application on this ground alone, the **ABC HOUSING AGENCY** will offer an opportunity for the applicant to explain why any property or asset should be excluded, or why real property owned by the family is exempt or not suitable for occupancy.

ASSET LIMITATION AT ANNUAL AND INTERIM REEXAMINATIONS

24 CFR 5.618



Discretionary Policy

While the asset limitation must be enforced for new applicants, PHAs have discretion in deciding how, or if, to enforce the asset limitation (i.e., the real property requirement and the \$100,000 net family assets requirement) at annual and interim recertifications (reexaminations) of existing residents. PHAs can adopt a written policy of:

- Total non-enforcement: The PHA will not enforce the asset limitation for all families at annual and interim reexamination.
- Total enforcement: The PHA will fully enforce the asset limitation. The PHA may still delay the initiation of termination proceedings for up to 6 months from the effective date of the reexamination.
- Limited enforcement: For a period, of up to six months, the PHA will not enforce the asset limitation. During this time, families have the opportunity to cure noncompliance with the asset limitation.

The PHA's enforcement policy, including the amount of time that the PHA will delay the initiation of termination or eviction proceedings for noncompliant families, must be included in the PHA's Administrative Plan or ACOP.

If the PHA chooses to enforce or partially enforce the limitation, the PHA may include exceptions in its written policy. Any exception policy must be included in the PHA's Administrative Plan or ACOP. The exception policy must describe the families who are excepted, and describe whether excepted families are subject to total non-enforcement or limited enforcement of the asset limitation. If excepted families are subject to limited enforcement, then the exception policy must include the timeframe for curing noncompliance (i.e., any number of months, up to six months).

Whichever choice the PHA makes applies to both the net family asset limitation and the real property limitation. The PHA cannot choose, for example, not to enforce the net family asset limitation, but to enforce the real property limitation.

CONSIDERATIONS

PHAs that choose to enforce the asset limitation at reexamination must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. They may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months.

Limited enforcement policies cannot provide families more than six months to come back into compliance and do not extend the period of time the PHA may delay initiation of termination or eviction proceedings. The PHA may still only delay initiation of termination or eviction proceedings for up to six months. (In the case of a reasonable accommodation, a family may be afforded more than six months to comply.)

CONSIDERATIONS CONTINUED

At annual and interim reexamination, PHAs may also establish exceptions to the asset limitation through a written policy. The policy will specify if families in the specified exception categories will receive:

- Total non-enforcement - not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at a reexamination. Or,
- Limited enforcement - families are provided an opportunity, up to but no longer than six months, to cure noncompliance, after which point the asset limitation would be enforced. PHAs may choose a period of delay that is less than six months.

Exception policies may be based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. Any exceptions that the PHA makes to an enforcement policy must comply with civil rights and fair housing statutes and requirements. PHAs who establish exception policies with a limited enforcement period may not delay initiation of termination proceedings beyond six months after the effective date of the annual or interim reexamination, if a family does not cure noncompliance.

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

Even if a PHA chooses total non-enforcement of the asset limitation after interim and annual reviews, the PHA must still calculate the family's net family assets.

If PHA policy allows a family to come into compliance, families should be advised to consult professional financial advisors before transferring assets. Families can also be provided with HUD's [HOTMA Resident Fact Sheet: Asset and Real Property Limitations](#).

SAMPLE LANGUAGE: Non-enforcement

ABC HOUSING AGENCY will determine each family's net family assets at interim and annual reviews in accordance with its policy. The **ABC HOUSING AGENCY** does not enforce the "Asset Limitation" found at 24 CFR 5.618(a) after interim or annual reviews. Therefore, the **ABC HOUSING AGENCY** will not make a determination about compliance with that limitation after interim or annual reviews.

SAMPLE LANGUAGE: Enforcement

ABC HOUSING AGENCY will determine each family's net family assets at interim and annual reviews in accordance with its policy. At the review, if the family owns real property, the family must inform the **ABC HOUSING AGENCY** of any reason why it is not suitable for their occupancy. After the review, the **ABC HOUSING AGENCY** will determine if the family is out of compliance with the asset limitation because the family:

1. Has net assets in excess of \$100,000 (as adjusted for inflation).
2. Owns real property suitable for occupancy.

If the **ABC HOUSING AGENCY** determines that a family is out of compliance with the asset limitation, the family will be notified that the **ABC HOUSING AGENCY** will initiate termination or eviction proceedings within [six] months of the income examination that determined the family was out of compliance. If the family has not vacated their unit, the PHA will begin eviction proceedings (for public housing residents) or terminate housing assistance (for HCV program participants) after [six] months.

SAMPLE LANGUAGE: Limited enforcement (option to cure)

The **ABC HOUSING AGENCY** will determine each family's net family assets at interim and annual reviews in accordance with its policy. After the review, the **ABC HOUSING AGENCY** will determine if the family is out of compliance with the asset limitation because the family:

- Has net assets in excess of \$100,000 (as adjusted for inflation).
- Owns real property suitable for occupancy.

If the **ABC HOUSING AGENCY** determines that a family is out of compliance with the asset limitation, the family will be notified of the determination. If the real asset limitation applies to the family, the notice will explain that the family can show compliance by showing that the property:

1. Is not suitable for occupancy.
2. Is currently being offered for sale.
3. That an exception applies.

The notice will also explain that the family has [six] months to demonstrate they have cured non-compliance with the asset limitation.

If, after six (6) months of the initial notification of noncompliance a family is still out of compliance with the asset limitation, the PHA will begin eviction (for public housing residents) or program termination (for HCV program participants) proceedings.

SAMPLE LANGUAGE: Exception policy

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, **ABC HOUSING AGENCY** 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 [limited] enforcement policy.

Sample Policy B: 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. All other families will be subject to the [limited] enforcement policy.

DETERMINING NET FAMILY ASSETS

24 CFR 5.603(b)(3) and (4)



Mandatory Policy

When calculating Net Family Assets, the PHA must include the value of non-necessary items of personal property if the combined value exceeds \$50,000.

CONSIDERATIONS

As explained below, PHAs may accept self-certification from a family whose net family assets, and income from those assets, do not exceed \$50,000 (as adjusted). (PHAs have discretion over this.)

The value of necessary items of personal property are always excluded from net family assets (mandatory).

If the family's *total non-necessary* personal property is valued under \$50,000 (as adjusted), then non-necessary personal property is excluded from net family assets. Further, when accepting self-certification, no breakdown between necessary and non-necessary is required - it can all be excluded (even if it is all non-necessary).

Determining what is a “necessary item” for personal property is a highly fact-specific determination. PIH Notice 2023-27 provides guidance for PHAs, owners, and grantees to determine whether an item of personal property is a “necessary item of personal property” or whether the value of the item should be included in calculating the value of all non-necessary items of personal property for the \$50,000 exclusion.

Some non-necessary personal property may be excluded from net family assets, e.g., retirement accounts.

PHAs may need to revise interview guides and individual verification forms to ensure adequate information is collected to make appropriate asset exclusion determinations.

SAMPLE LANGUAGE

When determining Net Family Assets, **ABC HOUSING AGENCY** will take the following steps:

1. Provide the family with a description of non-necessary personal property and ask the family to estimate the total value of their non-necessary personal property. If the family estimates that their non-necessary personal property is valued under \$50,000 (as adjusted annually for inflation) then the PHA will not ask the family to report the individual items of non-necessary personal property, except every third year when the PHA is fully verifying all assets.
2. If the family's non-necessary personal property has a net value over \$50,000, **ABC HOUSING AGENCY** will ask the family to report a full list of their non-necessary personal property. The PHA will assess the list to determine if any of the items are necessary personal property. The PHA will make a determination as to each item identified, based on HUD (or **ABC HOUSING AGENCY**) guidance, and if the item is determined to be necessary, or otherwise excluded from net family assets, like a retirement account, educational savings account, etc, it will be excluded from the family's net assets.



Discretionary Policies

PHAs have the discretion to define in written policy the types of items that constitute necessary and non-necessary personal property, as long as the policy does not conflict with any guidance from HUD on what constitutes necessary vs. non-necessary personal property. Any policy must be applied consistently across the program.

CONSIDERATIONS

No policy will be able to encompass all possible items of personal property. However, certain items (like automobiles) will be common and having some written policies may streamline reexaminations. For this reason, all policies should include a line that allows for other items as determined by the PHA.

SAMPLE LANGUAGE

ABC HOUSING AGENCY will consider the following to be necessary items of personal property:

- Any automobile regularly used by a member of the family to commute to work, school, or childcare
- Any computer or electronic device (such as laptop, tablet, monitor, or cellphone) that is used by any family member to work, look for work, or study
- Any item used for religious purposes (such as a historic book of scripture).
- Any furniture used in the family's home
- Jewelry or other keepsakes which hold religious or cultural value, or deep family significance. For example, a watch which has been in the family and passed down from generation to generation.

ABC HOUSING AGENCY will consider the following to be non-necessary items of personal property:

- Bank accounts and other financial investments (e.g., checking account, savings account, stocks/bonds)
- Any automobile that is used purely for recreation (such as an RV or camping trailer) and not for any of the defined "necessary" uses, is a "non-necessary" item of personal property and is included in the calculation of net family assets
- Collectible items (such as sports cards or trading cards) that are not used for a work-related purpose by a family member

ABC HOUSING AGENCY may make case-specific determinations of other "necessary" items.

SELF-CERTIFICATION OF NET FAMILY ASSETS

24 CFR 5.603(b) "Net Family Assets" para. (2); 5.618(b)



Mandatory Policy

PHAs must determine the value of net family assets, and the income earned on assets, at admission and annually. Additionally, PHAs must fully verify assets every three years by obtaining third-party verification of all family assets. Third-party verification of assets is always required when net family assets exceed \$50,000, adjusted annually by HUD.

When fully verifying assets, PHAs are required to obtain a minimum of one account statement to verify the balance of accounts and any interest accrued on the account, such as checking and savings accounts.

CONSIDERATIONS

Net family assets include all assets except those specifically excluded in 24 CFR 5.603(b)(3).

The PHA must include the value of any business or family assets sold by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, in excess of the amount received.

In the case of a sale as part of a separation or divorce settlement, the sale or other disposition will not be considered to have been for less than fair market value if the applicant or tenant receives other compensation not measurable in dollar terms.

Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify an exclusion from family assets.

SAMPLE LANGUAGE

It is the policy of **ABC HOUSING AGENCY** to determine each family's net family assets at the time of admission and at annual and interim reexaminations.



Discretionary Policies

The PHA may choose to determine net family assets and anticipated income earned from assets based on a family self-certification, certifying that their net family assets are equal to or less than \$50,000 without taking additional steps to verify accuracy, including at admission. However, assets will be fully verified, using third-party documentation every three years.

PHAs who choose not to accept self-certification must verify all families' assets on an annual basis.

PHAs must include in their ACOP/Admin Plan whether they will accept a self-certification of assets equal to or less than \$50,000.

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

CONSIDERATIONS

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. In deciding whether to accept a self-certification of assets at admission, PHA's are encouraged to 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 LANGUAGE

ABC HOUSING AGENCY will determine net family assets and anticipated income earned from assets at new admission [based solely on a family self-certification that their net family assets are equal to or less than \$50,000. / by fully verifying the information reported by the family, regardless of the family having assets that are equal to or less than \$50,000].

After a family's assets of \$50,000 or less have been self-certified for two years in a row, at the next annual reexamination, **ABC HOUSING AGENCY** will fully verify net family assets and anticipated income earned from assets. After fully verifying the family's net family assets, **ABC HOUSING AGENCY** will resume accepting self-certification until the third annual reexam following the most recent full verification. If net family assets are greater than \$50,000, assets will be fully verified.

When fully verifying assets, **ABC HOUSING AGENCY** will obtain a minimum of [one] account statement to verify the balance and any interest on accounts, including any checking and savings accounts.

HARDSHIP EXEMPTIONS

HARDSHIP EXEMPTIONS FOR HEALTH/MEDICAL CARE EXPENSES & REASONABLE ATTENDANT CARE & AUXILIARY APPARATUS EXPENSES – GENERAL RELIEF

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



Mandatory Policy

There are two types of hardship exemptions to the ten percent threshold for deducting unreimbursed health and medical care expenses (for elderly and disabled families) and reasonable attendant care and auxiliary apparatus expenses (for families that include a person with disabilities).

- The first category, Phased In Relief, defined in § 5.611(c)(1), is for families eligible for and taking the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses deduction in effect **prior to January 1, 2024.**
- The second category, General Relief, defined in § 5.611(c)(2), is for families that can demonstrate that the family's health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

SAMPLE LANGUAGE

Phased-in Relief

- 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 January 1, 2024, 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.
- Once a family chooses to obtain General Relief, a family may no longer receive the phased-in relief.

HARDSHIP EXEMPTIONS FOR HEALTH/MEDICAL CARE EXPENSES & REASONABLE ATTENDANT CARE & AUXILIARY APPARATUS EXPENSES – GENERAL RELIEF



Discretionary Policies

General Relief

Families that can demonstrate that the family's health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination may qualify for General Relief. With qualifying hardships, the PHA will deduct eligible expenses in excess of **5 percent** of the family's income for a period of up to **90 days**.

The PHA must develop written policies in their ACOP/ Admin Plan to define what constitutes a qualifying hardship for General Relief. Specifically, the PHA must establish policies regarding the 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.

PHAs must include in their ACOP/Admin Plan whether they will 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.

CONSIDERATIONS

Policies must include:

- What constitutes a hardship and how the PHA will verify the hardship.
- The maximum number of 90-day extension periods (if allowing any) a family may receive. PHAs may create policies to extend such exemptions for additional 90-day periods at their discretion, based on the family's circumstances.

Relief under this section is available regardless of whether the family has exhausted previously received health and medical or reasonable attendant care and auxiliary apparatus deductions or currently or previously received Phased In relief under 5.611(c)(1) so long as they independently qualify under § 5.611(c)(2). So, a family who exhausted the phased-in relief or chose to apply for relief under this category before completing the transition to the ten percent threshold may receive General Relief, so long as they independently qualify under § 5.611(c)(2).

Relief under this section may be extended for 90-day periods. PHAs are not limited by HUD to a maximum number of 90-day periods.

HARDSHIP EXEMPTIONS FOR HEALTH/MEDICAL CARE EXPENSES & REASONABLE ATTENDANT CARE & AUXILIARY APPARATUS EXPENSES – GENERAL RELIEF

CONSIDERATIONS CONTINUED

PHAs may also establish in policy the discretion to grant more than one 90-day extension at a time if the condition has been verified to be long-term.

PHAs are not required to conduct an interim reexamination to add, remove, or extend a hardship exemption. Instead, the PHA will process and submit a non-interim reexamination transaction.

SAMPLE 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 **ABC HOUSING AGENCY** determines that the expense giving rise to the hardship exemption will not end within 90 days, **ABC HOUSING AGENCY** may grant one or more 90-day extensions in advance.

ABC HOUSING AGENCY will not consider [more than four (4) consecutive] requests for this hardship exemption.

Verification:

ABC HOUSING AGENCY 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. **ABC HOUSING AGENCY** must attempt to obtain third-party verification prior to the end of the 90-day period.

HARDSHIP EXEMPTIONS FOR HEALTH/MEDICAL CARE EXPENSES & REASONABLE ATTENDANT CARE & AUXILIARY APPARATUS EXPENSES – GENERAL RELIEF

SAMPLE LANGUAGE CONTINUED

ABC HOUSING AGENCY 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.

ABC HOUSING AGENCY 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, **ABC HOUSING AGENCY** will redact all personally identifiable information. **ABC HOUSING AGENCY** 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

ABC HOUSING AGENCY will accept written third-party documents provided by the family. If family-provided documents are not available, **ABC HOUSING AGENCY** 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, **ABC HOUSING AGENCY** 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.

HARDSHIP EXEMPTIONS FOR HEALTH/MEDICAL CARE EXPENSES & REASONABLE ATTENDANT CARE & AUXILIARY APPARATUS EXPENSES – GENERAL RELIEF

SAMPLE LANGUAGE CONTINUED

Family member(s) permitted to work:

- **ABC HOUSING AGENCY** will verify that the expenses claimed enable a family member, or members, including the person with disabilities, to work.
- **ABC HOUSING AGENCY** 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 EXEMPTION TO CONTINUE CHILD CARE EXPENSES DEDUCTION

24 CFR 5.611(a)(4)



Mandatory Policy

PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

SAMPLE LANGUAGE

Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

If the family reports the change in circumstances in a timely manner [(within 7 days)] **ABC HOUSING AGENCY** will provide the family with [30 days] advance notice of any rent increase, and such rent increase will be effective the first day of the month beginning after the end of that [30-day] notice period.

If the family does not report the change in a timely manner, the adjustment will be made retroactive to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement.



Discretionary Policy

PHAs may extend hardship exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

CONSIDERATIONS

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue the child care expense deduction under 24 CFR 5.611(a)(4). The PHA must recalculate the family's adjusted income and continue the child care deduction if the family demonstrates to the PHA's satisfaction that the family is 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 or furthering his or her education.

The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. PHAs, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

PHAs are not limited by HUD to a maximum number of 90-day extensions.

PHAs must establish a policy on what constitutes a hardship which includes determining the family's inability to pay the rent, for purposes of determining eligibility for a hardship exemption to continue the child care expense deduction.

SAMPLE LANGUAGE

It is the policy of **ABC HOUSING AGENCY** 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.

- **ABC HOUSING AGENCY** may extend the hardship exemption for additional 90-day periods based on family circumstances.
- **ABC HOUSING AGENCY** 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 FOR DETERMINATION OF THE FAMILY'S INABILITY TO PAY RENT

24 CFR 5.611(e)



Discretionary Policy

PHAs have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child care expenses hardship exemption.

- PHAs must establish policies on how they define what constitutes a hardship triggering eligibility for a hardship exemption i.e., when a family is unable to pay rent.
- PHAs must describe these policies in their ACOP / Admin Plan, as applicable.

SAMPLE LANGUAGE

It is the policy of **ABC HOUSING AGENCY** to offer general hardship relief for the regular health and medical expenses deduction and the child care deduction. Hardship includes the following situations:

Child care

- A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a need for child care.
- A health/ medical issue in the family which has created the need for child care. In order to qualify under this provision, a family must describe how the health or medical issues have created a need for child care.

A family is considered to have a hardship when:

- The household's family share of total housing costs exceeds 35 percent of adjusted household income.
- Or when the family would be evicted because it is unable to pay the tenant portion of the rent.

Family health and medical expenses

- 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.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.
- The family may receive a deduction of all eligible expenses exceeding 5% of their 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.

OR

ABC HOUSING AGENCY has not established any additional hardship criteria.

ADDITIONAL (PERMISSIVE) DEDUCTIONS

24 CFR 5.611(b)



Mandatory Policy

In addition to deductions that PHAs are required to consider, they may establish other “permissive” deductions by policy.



Discretionary Policy

PHAs can respond to community needs by establishing a wide range of permissive deductions, including permissive deductions to provide incentives for families to work, encourage self-sufficiency, and for economic mobility.

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.

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

- 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.

SAMPLE LANGUAGE

ABC HOUSING AGENCY has opted not to use permissive deductions.

OR

In order to encourage economic self-sufficiency among residents of **ABC HOUSING AGENCY**, permissive deductions have been adopted for exclusion when calculating the anticipated adjusted household income:

- Permissive deductions apply to the first 12 months of new or increased employment and will be spread out over the immediate 12-month period to eligible adult household members. The permissive deductions listed below are a one-time per lifetime exclusion to be applied to adult household members who:
 - ◊ Have been unemployed for at least six (6) months and seek and secure employment; or
 - ◊ Are employed but increase their gross monthly income by at least \$200 per month; or
 - ◊ Continue their education.

The one (1) time per lifetime deductions are as follows:

1. The actual amount needed for the purchase of uniforms, tools and/or equipment required for the specific employment, which are not paid for or reimbursed by the employer
2. Reasonable cost of child care for older children who would not otherwise be eligible for child care deductions, if the employed family member works nights
3. The un-reimbursed costs of tuition, books, supplies, and fees

On-going permissive deductions are as follows:

1. The actual cost of court-ordered child support paid for a child that is not in the resident’s custody
2. The actual cost of court-ordered child support paid to an individual that is not a member of the same household
3. The actual cost of court-ordered alimony paid to an individual that is not a member of the same household

ABC HOUSING AGENCY will deduct child support payments up to \$480 annually, per child, made by any member of the family for the support and maintenance of any child who does not reside in the household. To verify payment, such payments must be tendered through an appropriate, governing child support collection entity. Payments must be verifiable by **ABC HOUSING AGENCY**.

DE MINIMIS ERRORS

24 CFR §§ 5.609(c)(4); 960.257(f); 982.516(f); 882.515(f); and 882.808(i)(5)



Mandatory Policy

De minimis errors 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.

PHAs must implement a policy to credit or repay a family if the family was overcharged tenant rent because of the PHA's error in income determination, regardless of the dollar amount of the error (including de minimis errors). The credit or repayment must be retroactive to the effective date of the action the error was made. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged rent.



Discretionary Policies

PHAs may choose how they will repay or credit a family the amount they were overcharged.

CONSIDERATIONS

PHAs may not implement local policies to require families to repay in instances resulting in a family being undercharged for rent where the PHA miscalculated income.

SAMPLE LANGUAGE

Once the **ABC HOUSING AGENCY** 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 **ABC HOUSING AGENCY** in instances where **ABC HOUSING AGENCY** miscalculated income resulting in a family being undercharged for rent. Once **ABC HOUSING AGENCY** becomes aware of the error the family will be provided with a 30-day notice of the increase to their rent portion.

ABC HOUSING AGENCY will take corrective action to credit or repay a family if the family was overcharged tenant rent, including de minimis errors, in the income determination.

- In the case of public housing residents, **ABC HOUSING AGENCY** will provide an immediate rent credit. If the amount of the credit would be more than the rent due **ABC HOUSING AGENCY** will provide payment to the family within [1 week] of becoming aware of the error.
- In the case of HCV residents, the family's rent portion will be temporarily adjusted down with additional HAP going to the property owner. **ABC HOUSING AGENCY** 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.

INTERIM REEXAMINATIONS

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

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time 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 the final rule.

TIMELY REPORTING OF CHANGES

24 CFR §§ 960.257(b)(4); 982.516(d); 882.515(b)(5)); and 882.808(i)(4)



Mandatory Policy

PHAs must adopt policies prescribing when and under what conditions the family must report a change in family income or composition. Families must report household composition changes and changes to adjusted income consistent with HOTMA and PHA requirements.

The ACOP/Admin Plan, as applicable, must include a policy describing how soon families must report changes in income, deductions, family and household composition, and the consequences of untimely reporting.

The PHA must conduct any interim reexamination, required under the final rule and local PHA policies, within a "reasonable time" which may vary based on the amount of time it takes to verify information but generally should not be longer than 30 days after changes are reported.



Discretionary Policy

The PHA has discretion in determining how soon a family must report a change for it to be considered timely. A PHA may wish to specify some or all qualifying circumstances that would trigger a retroactive rent decrease in the case of late reporting.

CONSIDERATIONS

If the PHA allows retroactive rent decreases, the ACOP /Admin Plan, as applicable, must specify under what conditions or extenuating circumstances a retroactive decrease will be allowed.

A retroactive rent decrease may not be applied prior to the later of:

1. The first of the month following the date of the actual decrease in income.
2. The first of the month following the most recent regular annual or interim reexamination.

EFFECTIVE DATE OF INTERIM RENT CHANGES

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

CONSIDERATIONS

Changes reported timely: If a family timely reports a change in family income or composition in accordance with PHA policies that results in a rent increase, the family must be provided at least 30 days advance notice of any rent increase, with the increase taking effect on the first day of the month after the end of that 30-day notice. If the family's rent portion will decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income.

Changes not reported timely: If a family does not comply with the PHA's interim reporting requirements and reports a change in family income or composition that results in a rent increase, the PHA **must** implement the rent increase retroactively to the first of the month following the date of the change leading to the interim reexamination of family income. If a family does not report the change in a timely manner in accordance with local PHA policy and a rent decrease is required, the PHA must implement the decrease no later than the first rent period following completion of the reexamination.

The PHA may adopt a discretionary policy to make the effective date of an interim reexamination resulting in a rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may also choose to establish conditions or requirements for when such a retroactive application of a rent decrease would apply e.g., where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA's operations.

In all cases, a retroactive rent decrease may not be applied prior to the later of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination.

In all cases of retroactive application (increase or decrease), the PHA must clearly communicate to the family and owner how the retroactive adjustment will affect the family's responsibility for rent.

SAMPLE LANGUAGE

- Families must report all changes in family income or composition within [15 or another number] calendar [or business] days from the effective date of the change to be considered "timely."
- **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 be effective on the first of the month following the end of the 30-day notice.
- **Timely reporting related to a decrease in rent:** Families that report changes in family income or composition within [15 or another number] calendar days from the effective date of the change that results in a decrease in tenant rent, the decrease will be effective the first day of the month after the date of the actual change leading to the interim reexamination of family income.

- **Untimely 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.
- **Untimely reporting related to a decrease in rent:** When a family does not report a change in a timely manner that will result in a decrease in tenant rent, **ABC HOUSING AGENCY** will implement the decrease no later than the first of the month following completion of the reexamination.
 - ◊ However, **ABC HOUSING AGENCY** 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 due.
 - ◊ The date that rent is due.
 - ◊ The date of the family's next annual income reexamination.
- In the case of an HCV family, 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.

DECREASES IN INCOME

24 CFR §§ 960.257(b)(2); 982.516(c)(2); and 882.515(b)(2)



Mandatory Policy

A family may request an interim reexamination of family income for any change since the last determination, however, the PHA may decline to conduct an interim reexamination of family income if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10% of the family's annual adjusted income (or a lower amount established by HUD through notice), or a lower threshold established by the PHA which must be included in the ACOP/ Admin Plan, as applicable.

PHAs are required by HUD to process interim reexaminations for all decreases in adjusted income when a family member permanently moves out of the unit.

CONSIDERATIONS

PHAs must identify in the ACOP/ Admin Plan the percentage threshold they will use for conducting an interim reexamination for decreases of a family's annual adjusted income.

In addition to decreases in family income, increases in deductions may produce a sufficient decrease in annual adjusted income to trigger an interim reexamination.

PHAs are not permitted to establish a dollar figure threshold amount instead of a percentage threshold.

SAMPLE LANGUAGE

An interim reexamination will be conducted when **ABC HOUSING AGENCY** becomes aware that the family's adjusted income has changed by an amount that is estimated to result in a decrease of at least 10% of the family's annual adjusted income.



Discretionary Policy

The PHA, by discretion, may set an income reduction threshold that is lower than 10%.

CONSIDERATIONS

PHAs may establish policies to round calculated percentage decreases up or down to the nearest whole percentage (e.g., a calculated decrease of 9.5% may be rounded 10%).

SAMPLE LANGUAGE

An interim reexamination will be conducted when **ABC HOUSING AGENCY** becomes aware that the family's adjusted income has changed by an amount that is estimated to result in a decrease of [any amount / other percentage less than 10%] or more of the family's annual adjusted income. Calculated percentage decreases less than 5% will be rounded up to their nearest whole number (ex: 4.4% will be rounded up to 5%).

Or

An interim reexamination will be conducted when **ABC HOUSING AGENCY** becomes aware that the family's adjusted income has changed by an amount that is estimated to result in 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.

INCREASES IN INCOME

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



Mandatory Policy

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10% or more in annual adjusted income or another amount established through a HUD notice. A series of smaller increases reported in adjusted income may cumulatively meet the 10% increase threshold, at which point the PHA must conduct an interim reexamination. However, PHAs **may not** consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased, unless the family had a previous interim examination where the family's income decreased during the same reexamination cycle (earned, unearned, or combined).

PHAs do not have the discretion to disregard increases in unearned income for the purposes of conducting an interim reexamination.

SAMPLE LANGUAGE

ABC HOUSING AGENCY will 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.

ABC HOUSING AGENCY 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.



Discretionary Policy

- If the family has undergone an interim certification for a decrease in income after the completion of the last annual reexamination, the PHA has discretion regarding whether or not to conduct an interim reexamination based on any increases in earned income.
- PHAs may choose not to conduct an interim reexamination if a family reports an increase in income that would be effective within the final three months of the next annual reexamination effective date.

CONSIDERATIONS

When the PHA elects to adopt a local policy to not process an interim reexamination for income increases effective during the last three month of the reexamination cycle, families who delay reporting income increases, which had already become effective, until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA's policies.

SAMPLE LANGUAGE

ABC HOUSING AGENCY will not consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased unless the family had a previous interim examination where the family's income, of any type, decreased during the same reexamination cycle.

Or

ABC HOUSING AGENCY will not consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased, regardless of whether the family had an interim decrease in income since the last annual reexamination.

All families are required to report any changes in family income that will result in an increase of 10% or more in annual adjusted income, with the exception that families are not required to report any increase in income during the last 3 months before their regular annual examination.

No interim reexaminations will be conducted due to **increases** in annual adjusted income in the 3 months before the next regular annual examination.

FORMS HUD-9886-A

AUTHORIZATION FOR THE RELEASE OF INFORMATION

24 CFR 5.230



Mandatory Policy

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

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-A 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 Policy

PHAs may establish policies around when family members must sign the consent forms when they turn 18 between reexaminations.

SAMPLE LANGUAGE

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

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

REVOCACTION OF CONSENT

24 CFR 5.232(c)



Mandatory Policy

The executed consent form (Form HUD-9886-A) 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.

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.



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.

CONSIDERATIONS

When a PHA does not establish such a policy such that revoking consent will result in termination of assistance, participant families will be required to sign a new consent form by the next regularly scheduled reexamination or interim reexamination. Allowing a family member to revoke consent and remain on the program means the PHA will need to be able to keep track of households where a member needs to sign a new consent form before they pull EIV for that family.

SAMPLE LANGUAGE

The executed consent form (Form HUD-9886-A) 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 **ABC HOUSING AGENCY**, however, revoking consent will result in termination or denial of assistance.

HUD'S ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

24 CFR 5.233



Mandatory Policies

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.



Discretionary Policies

PHAs may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income.

PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP/Admin Plan, as applicable.

PHAs that choose to use the EIV Income Discrepancy Report and other EIV reports at intervals other than reexaminations must include this information in their ACOP/Admin Plan, as applicable.

CONSIDERATIONS

EIV is required only at annual recertifications, and not at interim recertifications. However, PHAs and owners may use EIV for interims if desired. Since the EIV Income Report can take up to 90 days to be updated, it often is not helpful during an interim reexamination.

When EIV is not used at interim reexaminations, tenants should be made aware that inaccurately reporting income at an interim certification could result in the family having to repay the PHA or owner.

PHAs who adopt local policies 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 (earned, unearned, or combined) since the last annual reexamination, are not required to use the EIV New Hires report between annual reexaminations.

CONSIDERATIONS CONTINUED

PHAs with a policy to consider earned income increases in calculating whether the 10% threshold has been met for an interim reexamination are required to review the EIV New Hires report at least quarterly, for the remainder of the reexamination period after the interim reexamination to decrease rent occurs.

PHAs must update their EIV policies and procedures to reflect their discretionary use of EIV reports (e.g., Income Report, zero income reports, New Hires Report, Income Discrepancy Report/IVT) under HOTMA.

SAMPLE LANGUAGE

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

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

OR

ABC HOUSING AGENCY will not use the EIV system during interim reexaminations.

OR

ABC HOUSING AGENCY will not use the EIV New Hires report between annual reexaminations given the **ABC HA'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.

OR

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

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

DETERMINATION OF INCOME USING OTHER MEANS TESTED PUBLIC ASSISTANCE, I.E., “SAFE HARBOR”

24 CFR 5.609(c)(3)



Mandatory Policies

PHAs 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 made within the previous 12-month period.

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.



Discretionary Policy

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

1. Establish in policy when they will accept Safe Harbor income determinations, including which programs they will accept income determinations from; and
2. 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.

CONSIDERATIONS

PHAs are not required to accept or use income determinations from other federal means-tested forms of assistance.

Means-tested forms of federal public assistance include:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.)
- Medicaid (42 U.S.C. 1396 et seq.)
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.)
- The Earned Income Tax Credit (26 U.S.C. 32)
- The Low-Income Housing Tax Credit (26 U.S.C. 42)
- The Special Supplemental Nutrition for Woman, Infants, and Children (42 U.S.C. 1786)
- Supplemental Security Income (42 U.S.C. 1381 et seq.)
- Other programs administered by the Secretary of HUD
- 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 HUD Secretary determines to have comparable reliability and announces through a Federal Register notice.

DETERMINATION OF INCOME USING OTHER MEANS TESTED PUBLIC ASSISTANCE, I.E., "SAFE HARBOR"

SAMPLE LANGUAGE

ABC HOUSING AGENCY 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 **ABC HOUSING AGENCY** 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, **ABC HOUSING AGENCY** 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, **ABC HOUSING AGENCY** will use the most recent determination (if completed more than 3 months apart). If determinations were completed within 3 months, **ABC HOUSING AGENCY** will use them in the following order:

1. The Low-Income Housing Tax Credit program (26 U.S.C. 42).
2. The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
3. The Special Supplemental Nutrition for Women, Infants, and Children (42 U.S.C. 1786).
4. The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
5. Medicaid (42 U.S.C. 1396 et seq.).
6. Supplemental Security Income (42 U.S.C. 1381 et seq.).
7. The Earned Income Tax Credit (26 U.S.C. 32).

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

VERIFICATION OF SOCIAL SECURITY NUMBER (SSN)

24 CFR 5.216(g)(1)



Mandatory Policy

PHAs must attempt to gather third-party verification of SSN prior to admission, however, they have the option of accepting a tenant declaration and a third-party document with the applicant's name printed on it to satisfy the requirement.

CONSIDERATIONS

HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR 5.216(g)(1) to make it easier for applicants to access the program even if they do not have access to their Social Security card.

PHAs must still attempt to gather third-party verification of SSN prior to admission, however, they will also have the option of accepting a tenant declaration and a third-party document with the applicant's name printed on it to satisfy the requirement.



Discretionary Policies

When accepting a tenant declaration of SSN, PHAs must state the circumstances in which they will resort to using tenant declaration of SSN in their ACOP/Admin Plan, as applicable, and review the Failed SSA Identity Report monthly to quickly identify any participants whose identity is not verified.

SAMPLE LANGUAGE

ABC HOUSING AGENCY requires that each family member (excepting 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, **ABC HOUSING AGENCY** 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 **ABC HOUSING AGENCY** has accepted any declarations as evidence of a SSN, **ABC HOUSING AGENCY** will review the Failed SSA Identity Report monthly to quickly identify any participants whose identity is not verified.

ZERO INCOME REVIEWS

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)



Mandatory Policies

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 Policies

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

CONSIDERATIONS

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.

PHAs must include any zero income policies in their ACOP/ Admin Plan.

SAMPLE LANGUAGE

ABC HOUSING AGENCY will no longer conduct zero income review for zero income families. Instead, **ABC Housing Agency** will monitor zero income families in EIV to identify increases in income.