

## Introduction

### HOTMA CHANGES IN THE ACOP

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

#### HOTMA 102/104

HUD published a final rule on February 14, 2023, revising regulations related to income, assets, adjusted income, verification, and reexams (among others) to implement Sections 102 and 104 of HOTMA. While the new regulations were effective January 1, 2024, HUD has delayed the compliance date for HOTMA 102/104. Initially, HUD published a delayed compliance date of January 1, 2025, but HUD again delayed the compliance date for HOTMA 102/104 and no new date has been provided. Compliance with Sections 102 and 104 of HOTMA means not only applying HOTMA 102/104 regulations to affected programs but also reporting in HUD's new Housing Information Portal (HIP) system. Currently, PHAs remain unable to comply with HOTMA 102/104 because compliance depends on transitioning from HUD's IMS/PIC system (which is unable to accept HOTMA-compliant Form HUD-50058) to HUD's new HIP system (which will be the only system that accepts HOTMA-compliant Form HUD-50058). PHAs cannot transition to HOTMA until HIP is in place, HOTMA-compliant, and accessible. However, HUD has determined that a few HOTMA 102/104 policies are not dependent on transition systems and easily isolated from other HOTMA 102/104 policy changes. These policies may be implemented prior to the migration to HIP.

HUD stated that PHAs may update their policy documents before determining the date at which they will transition to all HOTMA Section 102 and 104 policies. HUD stated that in order to update their policy documents for HOTMA in this circumstance, PHAs may create an appendix that contains the HOTMA policies that will be incorporated at a later date. The model policy adopts such an approach. HOTMA 102/104 policies are provided in each affected area of the model policy. However, with the exception of the policies HUD has indicated may be adopted early, HOTMA policies that are "on hold" are indicated in the model policy as such. Further, an appendix has been provided to explicitly call out those policies that are on hold.

## RESOURCES CITED IN THE ACOP

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

### Public Housing Occupancy Guidebook

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements*, p. 11).

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to scite the Public Housing Occupancy Guidebook.

### Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HUD-50058 IB	HUD-50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
New PH OCC GB	Public Housing Occupancy Guidebook, Various dates of release
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)

## PART II: THE PUBLIC HOUSING PROGRAM

### 1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule. [HUD issued a revised version of the notice on February 2, 2024.](#)

## 1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

## 2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

### Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the PHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing “large-print” forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- [Allowing a change in the family’s rent due date to correspond with the receipt of the head of household or spouse/cohead’s SSI or SSDI benefits](#)
- Allowing a PHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

## 2-III.B. ORAL INTERPRETATION

The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.

### PHA Policy

The PHA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote hearings, however, the PHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the PHA. The PHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the PHA will not rely as on the minor to serve as the interpreter.

The PHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, ~~according to its language assistance plan (LAP)~~, the PHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

## 2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

### PHA Policy

In order to comply with written-translation obligations, the PHA will take the following steps:

The PHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the PHA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

### 3-I.M. LIVE-IN AIDE

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

#### PHA Policy

A family's request for a live-in aide may be made either orally or in writing. The PHA will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker, unless the disability-related need is apparent or known to the PHA. For continued approval, the family may be required to submit a new, written request—subject to PHA verification—at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The PHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person has a history of drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

If the live-in aide or their family members participate in drug-related or criminal activity BWCHA will rescind the aid's right to occupy the unit. When the agency takes such action against the live-in aide, the aide is not entitled to the grievance hearing process of the agency.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

#### Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

#### Types of Low-Income Families [24 CFR 5.603(b)]

*Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

#### Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and [subsidy occupancy](#) standards.

### **Time Frame for Determination of Citizenship Status [24 CFR 5.508(g)]**

For new occupants joining the resident family the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

#### PHA Policy

The PHA will verify the status of applicants at the time other eligibility factors are determined.

### **3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six has been added to an applicant family within the six months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

*Note:* These requirements do not apply to noncitizens who do not contend eligible immigration status.

~~In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.~~

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230 and 24 CFR 5.232]**

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886-A, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

#### **Upon the PHA's HOTMA 102/104 compliance date, the following on revocation of consent is added:**

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance ~~or admission~~ [24 CFR 5.232(c)].

#### **PHA Policy**

The PHA has established a policy that the family's revocation of consent to allow the PHA to access records from financial institutions will result in denial of admission.

### **EIV Income and Income Validation Tool (IVT) Reports**

For each new admission, the PHA is required to review ~~the EIV Income and IVT Reports~~income information in EIV to confirm and validate family reported income within 120 days after the move-in information is transmitted to HUD. ~~of the IMS/PIC submission date of the new admission.~~ The PHA must print and maintain copies of the ~~EIV Income and IVT~~ reports in the tenant file and resolve any discrepancies with the family ~~within 60 days of the EIV Income or IVT report dates.~~

Upon the PHA's HOTMA 102/104 compliance date, the following on revocation of consent is added:

### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed ~~\$100,000 (adjusted annually by HUD)~~ the HUD-published asset limitation amount (adjusted annually by HUD).

- This amount is listed in HUD's current year Inflation-Adjusted Values tables
- \$100,000 for 2024, \$103,200 for 2025

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The PHA does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

PHA Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on the PHA's occupancy standards in Chapter 5.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);

PHA Policy

In general, the PHA defines a geographic hardship to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The PHA will consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation.

See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

#### 4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use.

##### **Local Preferences [24 CFR 960.206]**

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

If the PHA has a Housing Choice Voucher program, the PHA must offer, and if accepted, provide the family a selection preference for an appropriate-sized public housing unit that first becomes available for occupancy after the time period expires for an HCV family whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame, and who are unable to lease a new unit within the term of the voucher [24 CFR 982.404(e)(2)]

##### PHA Policy

The PHA will offer a preference to families that include:

1. Victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking who are seeking an emergency transfer under VAWA from the PHA's housing choice voucher program or other covered housing program operated by the PHA.
2. Individuals or families displaced by government action. The PHA will determine whether an applicant or participant has been displaced by an activity carried out by an agency of the United States or by a State or local government body or agency in connection with code enforcement or a public improvement or development program. The application of this preference shall be approved at the sole discretion of the Executive Director of the PHA.
- 2.3. HCV families whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame, and who were unable to lease a new unit within the term of the voucher.
- 3.4. Individuals or families who are either current residents of the PHA Public Housing Program or other approved subsidized housing who are inappropriately housed or for whom the PHA has no appropriate housing. The application of this preference shall be approved at the sole discretion of the Executive Director of the PHA.

## 5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

### PHA Policy

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

Offers made by telephone will be confirmed by letter or email.

## 5-II.D. REFUSALS OF UNIT OFFERS

### **Good Cause for Unit Refusal**

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

### PHA Policy

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

## Chapter 6.A.

### INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

#### INTRODUCTION

**This chapter is applicable prior to the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 6.B. of the model policy.**

The program regulations in the current Code of Federal Regulations (CFRs) were updated for HOTMA on January 1, 2024. As a result, pre-HOTMA regulations from 2023 are no longer available on the electronic CFRs. However, since full HOTMA implementation is still pending, the pre-HOTMA regulations continue to apply to some elements of the program, and this chapter makes references to both pre-HOTMA and HOTMA regulations where applicable. Where HOTMA regulations apply, citations in this chapter have been provided indicating that current HOTMA CFRs are applicable. For all other citations, the pre-HOTMA CFRs apply. The federal government archives previous versions of the CFRs, and PHAs may access them here:

<https://www.govinfo.gov/app/collection/cfr/2023/title24>.

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. The PHA will use the policies and methods described in this chapter to ensure that only income-eligible families receive assistance and that no family pays more or less rent than is required under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.



## PART I: ANNUAL INCOME

### 6-I.A. OVERVIEW

#### 5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (as updated for HOTMA per Notice PIH 2024-38) (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- The Effect of Welfare Benefit Reduction (Exhibit 6-4)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.A.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3) as updated for HOTMA]. All sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14) as updated for HOTMA]. All sources of income, except those specifically excluded by the regulations, are included.

### **Temporarily Absent Family Members**

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

#### PHA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

### ***Absent Students***

#### PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information

becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

### ***Absences Due to Placement in Foster Care***

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

#### PHA Policy

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

### ***Absent Head, Spouse, or Cohead***

#### PHA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

### ***Family Members Confined for Medical Reasons***

#### PHA Policy

The PHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

### ***Joint Custody of Children***

#### PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

## **Caretakers for a Child**

### PHA Policy

The approval of a caretaker is at the PHA's discretion and subject to the PHA's screening criteria. If neither a parent nor a designated guardian remains in a household, the PHA will take the following actions.

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the PHA will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

## 6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

### **Basis of Annual Income Projection**

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows PHAs to use tenant-provided documents (pay stubs) dated within 120 days of the date received by the PHA to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data. The PHA may also accept a statement dated within the appropriate benefit year for fixed income sources.

### PHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the PHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the PHA will make every effort to obtain current and consecutive pay stubs dated within the last 120 days.

The PHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If the PHA determines additional information is needed.

In such cases, the PHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

### ***Known Changes in Income***

If the PHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within 120 days of the date received by the PHA. Statements dated within the appropriate benefit year will be accepted for fixed income sources.

### **Projecting Income**

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

## 6-I.D. EARNED INCOME

### Types of Earned Income Included in Annual Income

#### *Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27; Notice PIH 2024-38]*

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24) as updated for HOTMA].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100 as updated for HOTMA].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b) as updated for HOTMA]. Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b) as updated for HOTMA]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

#### PHA Policy

The PHA will include in annual income the gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

#### *Some Types of Military Pay*

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11) as updated for HOTMA].

## **Types of Earned Income Not Counted in Annual Income**

### ***Earnings of a Minor [24 CFR 5.609(b)(3) as updated for HOTMA]***

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

### ***Earned Income of Full-Time Students [24 CFR 5.609(b)(14) as updated for HOTMA]***

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, *Lease Requirements*, p. 5].

### ***Income of a Live-in Aide***

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(b)(8) as updated for HOTMA]. (See Eligibility chapter for a full discussion of live-in aides.)

## **6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating in the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

### **Calculation Method**

#### ***Initial 12-Month Exclusion***

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

#### PHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

#### ***Second 12-Month Exclusion***

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

#### PHA Policy

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

#### ***Lifetime Limitation***

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

## **Individual Savings Accounts [24 CFR 960.255(d)]**

### PHA Policy

The PHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

## **6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(28) as updated for HOTMA; Notice PIH 023-27]**

Annual income includes “the net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

### PHA Policy

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

## **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24) as updated for HOTMA].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b) as updated for HOTMA]. This may include individuals such as third-party delivery and transportation service providers and “gig workers” like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

## **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

### PHA Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

## **Capital Indebtedness**

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

### PHA Policy

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

## **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

## **Withdrawal of Cash or Assets from a Business**

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

### PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

## **Co-owned Businesses**

### PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

## **6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9) as updated for HOTMA]**

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA), which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i) as updated for HOTMA].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education (not otherwise excluded by the Federally mandated income exclusions) [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income.

*Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the educational institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be 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 (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

## PHA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the PHA will exclude the full amount of the assistance received under Title IV from the family's annual income. The PHA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The PHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The PHA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

### **Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii) as updated for HOTMA. The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

### **Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

### **Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### **Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

## **6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]**

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b) as updated for HOTMA, and thus they are included in annual income.

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

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16) as updated for HOTMA]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

#### PHA Policy

The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 9. If not, the PHA will consider the amount when processing the family's next annual recertification.

## **Retirement Accounts [24 CFR 5.609(b)(26) as updated for HOTMA; Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

## **Social Security Benefits [Notice PIH 2023-27]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

### PHA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

## **6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) as updated for HOTMA and Notice PIH 2023-27]**

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly).

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i) as updated for HOTMA].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii) as updated for HOTMA].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv) as updated for HOTMA].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v) as updated for HOTMA].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi) as updated for HOTMA]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.

- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii) as updated for HOTMA].

**6-I.J. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19) as updated for HOTMA]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies, or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

**6-I.K. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25) as updated for HOTMA; FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount (\$50,000 for 2024, and \$51,600 for 2025), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

### **6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b) as updated for HOTMA; FR Notice 1/31/2024]**

Other exclusions contained in 24 CFR 5.609(b) as updated for HOTMA and FR Notice 1/31/2024 that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4) as updated for HOTMA].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5) as updated for HOTMA]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6) as updated for HOTMA].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7) as updated for HOTMA].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10) as updated for HOTMA].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10) as updated for HOTMA].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11) as updated for HOTMA].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17) as updated for HOTMA]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20) as updated for HOTMA]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21) as updated for HOTMA]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23) as updated for HOTMA].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27) as updated for HOTMA].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii) as updated for HOTMA].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i) as updated for HOTMA].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii) as updated for HOTMA].

***State and Local Employment Training Programs [24 CFR 5.609(b)(12)(iv) as updated for HOTMA]***

- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv) as updated for HOTMA].

PHA Policy

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13) as updated for HOTMA].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15) as updated for HOTMA].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20) as updated for HOTMA].

- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) as updated for HOTMA apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22) as updated for HOTMA].

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion also applies to assets.
- (b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.
- (c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.
  - Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).
- (d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506).
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)).
- (g) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which was reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts.
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Section 6).
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).

- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408).
- (m) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).
- (n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.
- (o) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C. 12637(d)).
- (p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.
- (q) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
- (r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets.
- (s) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion also applies to assets.
- (t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).  
For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327 (as amended)).
- (u) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).

- (v) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).
- (w) Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).
- (x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.
- (y) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.
- (z) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).
- (aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.
- (ab) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).
- (ac) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

## **6-I.M. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]**

### **Overview**

There is no asset limitation for participation in the public housing program. However, HUD requires that the PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)] and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

### **General Policies**

#### ***Income from Assets***

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

#### **PHA Policy**

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the PHA to show why the asset income determination does not represent the family’s anticipated asset income.

## ***Valuing Assets***

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

### PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

## ***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii) as updated for HOTMA; Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

### PHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

### ***Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]***

When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

#### **PHA Policy**

The PHA initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The PHA will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time of the review.

### ***Determining Actual Anticipated Income from Assets***

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property’s market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

### ***Withdrawal of Cash or Liquidation of Investments***

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

### ***Jointly Owned Assets***

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

#### **PHA Policy**

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset evenly among all owners.

### ***Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]***

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

#### ***Minimum Threshold***

The PHA may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

#### **PHA Policy**

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

### *Separation or Divorce*

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

#### PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### *Foreclosure or Bankruptcy*

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

### *Family Declaration*

#### PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

## **Types of Assets**

### ***Checking and Savings Accounts***

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

#### PHA Policy

In determining the value of a checking account, the PHA will use the current balance.

In determining the value of a savings account, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

***ABLE Accounts [24 CFR 5.609(b)(10) as updated for HOTMA; Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

PHA Policy

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

***Equity in Real Property or Other Capital Investments***

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

PHA Policy

In determining the equity, the PHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The PHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the PHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

#### PHA Policy

For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

#### PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### ***Trusts [24 CFR 5.609(b)(2) as updated for HOTMA]***

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust continues to be excluded from net family assets so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4) as updated for HOTMA]. Further, where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The PHA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).
- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

## ***Retirement Accounts***

### ***Company Retirement/Pension Accounts***

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

### ***IRA, Keogh, and Similar Retirement Savings Accounts***

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

## ***Personal Property***

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

### **PHA Policy**

In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

### **PHA Policy**

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

## ***Life Insurance***

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

## **6-I.N. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

#### ***Covered Families***

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

#### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon the PHA’s denial of a family’s request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

#### ***Offsets***

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

## **6-I.O. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]**

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

### **Alimony and Child Support**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

#### PHA Policy

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.



## PART II: ADJUSTED INCOME

### 6-II.A. INTRODUCTION

#### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
  - (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further their education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

#### Anticipating Expenses

##### PHA Policy

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and nonschool periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

## **6-II.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b) as updated for HOTMA].

## **6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

## **6-II.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b) as updated for HOTMA]**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The health and medical care expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the medical expenses of all family members are counted [VG, p. 28].

### **Definition of *Medical Expenses***

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) (as updated for HOTMA) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.” Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies to IRS Publication 502. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition. While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable expenses, and the PHA may list examples of allowable expenses in their policy provided they comply with HUD’s definition at 24 CFR 5.603 as updated for HOTMA. The PHA may not define *health and medical care expenses* more narrowly than the regulation.

PHA Policy

The PHA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will the PHA deduct any expenses listed in IRS Publication 502 that do not conform with HUD’s definition of *health and medical care expenses*.

<b>Summary of Typical Allowable Health and Medical Care Expenses</b>	
<p>Services of medical professionals</p> <p>Surgery and medical procedures that are necessary, legal, and non-cosmetic</p> <p>Services of medical facilities</p> <p>Hospitalization, long-term care, and in-home nursing services</p> <p>Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor</p> <p>Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)</p> <p>Medical insurance premiums or the cost of a health maintenance organization (HMO)</p> <p>Medicare Part B and Part D premiums</p>	<p>Substance abuse treatment programs</p> <p>Psychiatric treatment</p> <p>Ambulance services and some costs of transportation related to medical expenses. The PHA will use the most current medical mileage rate listed in IRS Publication 502.</p> <p>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</p> <p>The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.</p>
<p><b>Note:</b> This chart provides a summary of eligible health and medical care expenses only. In all cases, the PHA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD’s definition.</p>	

## **Families That Qualify for Both Health and Medical Care and Disability Assistance Expenses**

### PHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]**

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any income exclusions are applied.

#### PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members’ incomes [PH Occ GB, p. 124].

## **Eligible Disability Expenses**

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: “Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals” [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

### ***Eligible Auxiliary Apparatus***

#### PHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

### ***Eligible Attendant Care***

The family determines the type of attendant care that is appropriate for the person with disabilities.

#### PHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Payments to Family Members***

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are not reimbursed by an outside source.

### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### PHA Policy

The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA will consider, the family's justification for costs that exceed typical costs in the area.

### **Families That Qualify for Both Medical and Disability Assistance Expenses**

#### PHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-II.F. CHILDCARE EXPENSE DEDUCTION**

HUD defines *childcare expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family’s household are included when determining the family’s childcare expenses.

### **Qualifying for the Deduction**

#### ***Determining Who Is Enabled to Pursue an Eligible Activity***

##### PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### ***Seeking Work***

##### PHA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the childcare expense being allowed by the PHA.

## ***Furthering Education***

### PHA Policy

If the childcare expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

## ***Being Gainfully Employed***

### PHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

## **Earned Income Limit on Childcare Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any income exclusions are applied.

When the person who is enabled to work is a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

### PHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

## **Eligible Childcare Expenses**

The type of care to be provided is determined by the tenant family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

### ***Allowable Childcare Activities***

#### PHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

#### PHA Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the PHA will use the schedule of childcare costs from a qualified local entity that either subsidizes childcare costs or licenses childcare providers. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

## **6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]**

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

### PHA Policy

The PHA has opted not to use permissive deductions.

## PART III: CALCULATING RENT

### 6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA
- The alternative non-public housing rent, as determined in accordance with 24 CFR 960.102

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

#### ***Welfare Rent [24 CFR 5.628]***

##### PHA Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR 5.630]***

##### PHA Policy

The minimum rent for this locality is \$0.

**Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]**

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

PHA Policy

The PHA chooses not to adopt optional changes to income-based rents.

**Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]**

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

PHA Policy

The PHA chooses not to use ceiling rents.

## **Utility Reimbursement [24 CFR 960.253(c)(4)]**

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

### PHA Policy

The PHA will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed \$15.00 per month on a monthly basis.

### PHA Policy

The PHA will issue all utility reimbursements monthly.

## **6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

### PHA Policy

The financial hardship rules described below do not apply in this jurisdiction because the PHA has established a minimum rent of \$0.

### **Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

### **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

### PHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

### PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

PHA Policy

The PHA has not established any additional hardship criteria.

## Implementation of Hardship Exemption

### *Determination of Hardship*

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

#### PHA Policy

The PHA defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The PHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>	
Assume the PHA has established a minimum rent of \$50.	
<b>TTP – No Hardship</b>	<b>TTP – With Hardship</b>
\$0 30% of monthly adjusted income	\$0 30% of monthly adjusted income
\$15 10% of monthly gross income	\$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
\$50 Minimum rent	\$50 Minimum rent
Minimum rent applies. TTP = \$50	Hardship exemption granted. TTP = \$15

#### PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

### ***No Financial Hardship***

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

#### **PHA Policy**

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

### ***Temporary Hardship***

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

#### **PHA Policy**

The PHA will enter into a repayment agreement in accordance with the PHA's repayment agreement policy (see Chapter 16).

### ***Long-Term Hardship***

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

#### PHA Policy

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) 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 example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) 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.

## **6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]**

### **Overview**

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

### **Reasonable Accommodation and Individual Relief**

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

## PHA Policy

The family must request the higher allowance and provide the PHA with information about the amount of additional allowance required.

The PHA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the PHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or PHA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. The PHA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

The family must request the higher allowance and provide the PHA with information about the amount of additional allowance required.

At its discretion, the PHA may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or PHA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

### **Utility Allowance Revisions [24 CFR 965.507]**

The PHA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

The PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)].

#### PHA Policy

Between annual reviews of utility allowances, the PHA will only revise its utility allowances due to a rate change, when required to by the regulation.

### **6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, the PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the PHA must:

- (1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
- (2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- (3) Multiply the member maximum subsidy by the number of eligible family members.
- (4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- (5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

#### PHA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

- (6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

## **6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]**

### **Flat Rents [24 CFR 960.253(b)]**

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

### **Family Choice in Rents [24 CFR 960.253(a) and (e)]**

With the exception of non-public housing over income families, once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

#### PHA Policy

The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The PHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The PHA must provide sufficient information for families to make an informed choice. This information must include the PHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the PHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

## **Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]**

With the exception of non-public housing over-income families, a family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

### PHA Policy

Upon determination by the PHA that a financial hardship exists, the PHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate

### PHA Policy

The PHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

## **Flat Rents and Earned Income Disallowance [A&O FAQs]**

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

**EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS**

**24 CFR 5.609**

*(a) Annual income means all amounts, monetary or not, which:*

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

*(b) Annual income includes, but is not limited to:*

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31<sup>1</sup>; and

(B) Are not otherwise excluded under paragraph (c) of this section.

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<sup>1</sup> Text of 45 CFR 260.31 follows (next page).

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

#### **HHS DEFINITION OF "ASSISTANCE"**

#### **45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

#### **260.31 What does the term "assistance" mean?**

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance

**EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS**

**24 CFR 5.609(b) as updated for HOTMA**

*(b) Annual income does not include the following:*

(1) Any imputed return on an asset when net family assets are less than or equal to the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

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

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

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

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

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

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

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

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

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

(9)

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

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

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

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

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

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (
- 3) Gifts, including gifts from family or friends; or

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

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

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

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

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

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such

accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.



## EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home



**EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION**

**24 CFR 5.615**

**Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

*(a) Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

*(b) Definitions.* The following definitions apply for purposes of this section:

*Covered families.* Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*Imputed welfare income.* The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

*(c) Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

*(d) Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination

of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

*(e) PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

## Chapter **6.B.**

### INCOME AND RENT DETERMINATIONS UNDER HOTMA 102/104

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

#### INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 6.A. of the model policy.

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in ~~three~~four parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to adopt additional permissive deductions. These requirements and PHA policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice of rent.

## PART I: ANNUAL INCOME

### 6-I.A. OVERVIEW [24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources (other than those specifically excluded in 24 CFR 5.609(b)) by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income (other than those sources specifically excluded in 24 CFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables \$50,000 (which amount HUD will adjust annually)) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member’s wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family’s annual income [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

### Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and PHA policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].  All <del>other</del> sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].  All <del>other</del> sources of unearned income, except those specifically excluded by the regulations, are included.

## Caretakers for a Child

### PHA Policy

The approval of a caretaker is at the ~~owner and~~ PHA's discretion and subject to the ~~owner and~~ PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving ~~HCV~~ assistance, the PHA will take the following actions.

If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the PHA will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the ~~housing choice voucher~~lease will be transferred to the caretaker.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

## 6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

### **Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

#### PHA Policy

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

#### ***Known Changes in Income***

If the PHA verifies an upcoming increase or decrease in income at admission or interim reexamination, annual income will be projected by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case the PHA would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 9.

**Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2);  
Notice PIH 2023-27]**

At annual reexamination, except where the PHA uses a streamlined income determination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Policies related to conducting annual reexaminations are located in Chapter 9.

## 6-I.D. EARNED INCOME

### *Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]*

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. [Income earned as a day laborer is not considered nonrecurring income.](#)

A *seasonal worker* is defined as an individual who is hired into a short-term position (-e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. [Income earned as a seasonal worker is not considered nonrecurring income.](#)

### PHA Policy

The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

### *Military Pay*

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

## **6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]**

Annual income includes “net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.”

### PHA Policy

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

This may include individuals such as third-party delivery and transportation service providers and “gig workers” like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

### **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

### PHA Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

## 6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is

### Types of Assistance

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA), which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

The second category is aAny other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education (not otherwise excluded by the Federally mandated income exclusions) ~~are excluded~~ [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income.

*Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the educational institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be 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 (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

## 6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]

Periodic payments are forms of income received on a regular basis. ~~HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.~~

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) ~~for a period of greater than one year that can be extended.~~ Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b), and thus they are included in annual income. ~~For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.~~

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments. ~~However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.~~

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

#### PHA Policy

The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family ~~and~~ reports this during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's rent retroactively for the period the payment was intended to cover.

## **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

## **Social Security Benefits [Notice PIH 2023-27]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

### PHA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. ~~Further, if a family's social security income is garnished for any reason, the PHA will use the net amount after the garnishment in order to calculate the family's income.~~

## Alimony and Child Support

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

### PHA Policy

The PHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement-

~~The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.~~

In order to verify that payments are not being made, the PHA will review child support payments over the last three months. If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income.

If payments are being made regularly, the PHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the PHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the PHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

~~If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income~~

## 6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

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

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- -Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving ~~HCV~~ assistance at the time the sanction was imposed.

#### ***Covered Families***

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

#### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

#### ***Offsets***

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

### **6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies, or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

### **6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount (\$50,000 for 2024, and \$51,600 for 2025 \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

## **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b); [FR Notice 1/31/2024](#)]**

Other exclusions contained in 24 CFR 5.609(b) [and FR Notice 1/31/2024](#) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages ~~for workers' compensation~~ are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family’s annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income ~~in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.~~
- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child-care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on ~~May 20, 2014~~ January 31, 2024. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion also applies to assets.
- (b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.
- (c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.
  - Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).
- (d) Certain pPayments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. ~~5506459e~~).
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)).
- (g) Allowances, earnings, and payments to individuals participating in programs under the Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931) which was reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts.
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. ~~2503-0~~ Section 6).
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise*

| *Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408).
- ~~(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)~~
- ~~(m#)~~ Payments received from programs funded under Title V of the Older Americans Act of 19685 (42 U.S.C. 3056(f)).
- ~~(n#)~~ Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.
- ~~(o#)~~ Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C. 12637(d)).
- ~~(p#)~~ Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.
- ~~(q#)~~ The value of any child-care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the ~~Child-Care~~Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
- ~~(r#)~~ Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets.
- ~~(s#)~~ Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion also applies to assets.
- ~~(t#)~~ Amounts of ~~scholarships-student financial assistance~~ funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).

For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327 (as amended)), the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6 I.L. for exceptions.)

(u) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).

- (vw) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).(under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (wx) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).as provided by the Assets for Independence Act, as amended in 2002
- ~~(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))~~
- ~~(xz) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.~~
- (yaa) Distributions from an ABLÉ account, distributions from and certain contributions to an ABLÉ account established under the ABLÉ Act of 2014 (Pub. L. 113-295.), as described in Notice PIH 2019-09 or subsequent or superseding notice is excluded from income and assets.
- ~~(z) and actual or imputed interest on the ABLÉ account balance [See also Notice PIH 2019-09]The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).~~
- (aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116-260, section 501(j)), and the American Rescue Plan Act of 2021.
- (ab) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(ac) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

## **6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE** **[24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant 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, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

### ***Minimum Threshold***

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations*, p. 24].

#### PHA Policy

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

#### PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. 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 excluding the property or other investments from family assets.

### ***Asset Owned by a Business Entity***

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

owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

## 6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

### *Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]*

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

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

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds the HUD-published threshold amount (adjusted annually and published in HUD's current year Inflation-Adjusted Values tables). When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets.

- The threshold amount is \$50,000 for 2024, and \$51,600 for 2025.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

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

PHA Policy

In determining the value of non-necessary, non-financial personal property, the PHA will use the family’s estimate of the value. The PHA may obtain an appraisal if there is reason to believe that the family’s estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's current year Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), checking and/or savings accounts would be counted toward net family assets.
- ~~When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets. When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.~~
- ~~When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.~~

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds  
[24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- ~~When the combined value of all non-necessary personal property does not the HUD-published threshold amount~~~~When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.~~
- ~~When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation,~~ all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

PHA Policy

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

~~*Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]*~~

~~All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.~~

~~*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.~~

~~The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.~~

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

~~The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.~~

~~While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.~~

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

PHA Policy

In determining the value of non-necessary personal property, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

### ***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

### ***PHA Policy***

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

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

### *Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]*

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

~~The following types of trust distributions are excluded from annual income:~~

- ~~• Distributions of the principal or corpus of the trust; and~~
- ~~• Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.~~

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. ~~Irrevocable trusts not under the control of any member of the family or household are not assets.~~ Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust ~~is not included in~~ continues to be excluded from net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. ~~Further, w~~Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

~~If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:-~~

~~All distributions from the trust's principal are excluded from income.~~

~~Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.~~ A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The PHA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).
- The value of a revocable trust that are is not under the control of the family is are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the

beneficiary does not “own” the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account’s trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets~~If this is the case~~, then distributions from the trust are treated as follows:

- All distributions from the trust’s principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust’s principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

~~Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets. If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.~~

***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

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

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

~~If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).~~

### ***Actual Income from Assets***

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

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

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ~~\$50,000 (adjusted annually by HUD)~~, without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

- The threshold amount is \$50,000 for 2024, and \$51,600 for 2025.

The PHA may not calculate or include any imputed income from assets when net family assets are less than or equal to the HUD-published threshold amount ~~total \$50,000 or less~~ [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### ***Imputed Income from Assets***

When net family assets exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ~~\$50,000 (adjusted annually by HUD)~~, the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). Imputed income is calculated by multiplying the net cash value of the asset (found by deducting reasonable costs that would be incurred in disposing of the asset from the market value) by the HUD-published passbook rate. ~~Imputed income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate.~~ If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

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

## PART III: ADJUSTED INCOME

### 6-III.A. INTRODUCTION

#### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions*

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
  - (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
- (4) Any reasonable child-care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

#### Anticipating Expenses

##### PHA Policy

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child-care during school and non-school periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

## 6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the unreimbursed health and medical care expenses of all family members are ~~counted~~included. The PHA calculates health and medical care expenses based on the family's past expenses, but accounting for any anticipated changes in expenses during the certification period.

### Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.”

~~Medical insurance premiums continue to be eligible health and medical care expenses.~~ Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed ~~and may only be deducted for elderly or disabled families.~~

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies ~~to with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses.~~ PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition ~~of health and medical care expenses.~~ While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable expenses, and the PHA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603. The PHA may not define *health and medical care expenses* more narrowly than the regulation.

### PHA Policy

The PHA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will the PHA deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses*.

<u>Summary of Typical Allowable Health and Medical Care Expenses</u>	
<u>Services of medical professionals</u> <u>Surgery and medical procedures that are necessary, legal, and non-cosmetic</u> <u>Services of medical facilities</u> <u>Hospitalization, long-term care, and in-home nursing services</u> <u>Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor</u> <u>Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)</u> <u>Medical insurance premiums or the cost of a health maintenance organization (HMO)</u> <u>Medicare Part B and Part D premiums</u>	<u>Substance abuse treatment programs</u> <u>Psychiatric treatment</u> <u>Ambulance services and some costs of transportation related to medical expenses. The PHA will use the most current medical mileage rate listed in IRS Publication 502.</u> <u>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</u> <u>The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.</u>
<p><b><u>Note:</u></b> <u>This chart provides a summary of eligible health and medical care expenses only. In all cases, the PHA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD’s definition.</u></p>	

**Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

PHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## 6-III.F. CHILD-CARE EXPENSE DEDUCTION

HUD defines ~~child-care~~*childcare* expenses at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age ([age 12 and younger](#)) (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child-care. In the case of child-care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

### Clarifying the Meaning of *Child* for This Deduction

Child-care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child-care expenses for foster children that are living in the assisted family’s household are included when determining the family’s child-care expenses [HCV GB, p. 5-29].

### Qualifying for the Deduction

#### *Determining Who Is Enabled to Pursue an Eligible Activity*

##### PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child-care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### *Seeking Work*

##### PHA Policy

If the child-care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child-care expense being allowed by the PHA.

## ***Furthering Education***

### PHA Policy

If the child-care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child-care claimed.

## ***Being Gainfully Employed***

### PHA Policy

If the child-care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child-care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

## **Earned Income Limit on Child-Care Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child-care – although the care must still be necessary and reasonable. However, when child-care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

~~When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child-care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child-care expenses are limited to \$5,000.~~

The PHA must not limit the deduction to the least expensive type of child-care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

### PHA Policy

When the child-care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable child-care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

## **Eligible Child-Care Expenses**

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child-care expense deduction because there is an adult family member in the household that may be available to provide child-care [VG, p. 26].

### ***Allowable Child-Care Activities***

#### PHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child-care.

The costs of general housekeeping and personal services are not eligible. Likewise, child-care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child-care to relatives who do not live in the unit are eligible.

If a child-care provider also renders other services to a family or child-care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to child-care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child-care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

Child-care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child-care provider verifies, that the expenses are not paid or reimbursed by any other source.

#### PHA Policy

Child-care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child-care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child-care costs, the PHA will use the schedule of child care costs from a qualified local entity that either subsidizes child-care costs or licenses child-care providers. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

### **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

#### ***Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]***

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

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

#### ***Phased-In Relief***

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. ~~The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024.~~ These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after the date on which the PHA implements phased-in relief.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA must process another transaction (either an interim reexamination or non-interim transaction, as applicable) one year later to move the family to the next phase.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

### PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The PHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexamination in accordance with PHA policies.

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

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

~~PHAs are not limited to a maximum number of 90-day extensions.~~ PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

### *Child-Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]*

A family whose eligibility for the child-care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child-care expense deduction, and that the ~~child-care~~childcare expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the ~~child-care~~childcare deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child-care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child-care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child-care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a grievance hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs 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 promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

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

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

## Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

With the exception of non-public housing over-income families, a family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

### PHA Policy

Upon determination by the PHA that a financial hardship exists, the PHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child-care, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate

### PHA Policy

The PHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

## ~~Flat Rents and Earned Income Disallowance [A&O FAQs]~~

~~Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.~~

~~Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.~~

~~Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.~~

**EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION**

**24 CFR 5.609**

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds the HUD-published threshold amount~~\$50,000~~ (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

*(b) Annual income does not include the following:*

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

(2) The following types of trust distributions:

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

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

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

## EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed the HUD-published threshold amount \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement

plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## **Chapter 7.A.**

### **VERIFICATION**

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2018-18]

#### **INTRODUCTION**

Prior to the PHA's HOTMA compliance date, the PHA will follow policies as outlined in this chapter. Upon the PHA's HOTMA compliance date, the PHA will follow policies as outlined in Chapter 7.B.

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

#### **PART I: GENERAL VERIFICATION REQUIREMENTS**

##### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION**

[24 CFR 960.259, 24 CFR 5.230; and Notice PIH 2023-27]

###### **Consent Forms**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886-A, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

## **Form HUD-9886-A [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]**

All adult applicants and tenants must sign form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886-A at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

### PHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A within 10 business days of turning 18 years of age.

The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act ([12 U.S.C. 3401](#)), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the PHA's grievance procedures.

## **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

### **Use of Other Programs' Income Determinations [24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Tax Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

### PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size;

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexamination will not be considered. If the family has a change in income that occurs after the annual reexamination effective date, the PHA will conduct an interim reexamination if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the PHA will use third-party verification to verify the change.

### **HUD's Verification Hierarchy [Notice PIH 2018-18]**

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification that the PHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification (may be provided by applicant or resident)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

### **Requirements for Acceptable Documents**

#### PHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 120 days of receipt by the PHA. Statements dated within the appropriate benefit year are acceptable for fixed sources of income. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

The PHA staff member who views the original document must make a photocopy

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

## **File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### PHA Policy

The PHA will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing the adjusted income or income-based rent determination

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2018-18].

## **7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c) and Notice PIH 2023-27]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

### PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources:

- The PHA will streamline the annual reexamination process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.

- The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.

- The PHA will document in the file how the determination that a source of income was fixed was made.

- If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.

- All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed the HUD-published threshold (\$50,000 for 2024, and \$51,600 for 2025);

- Of all deductions and allowances from annual income;

- If a family member with a fixed source of income is added;

- If verification of the COLA or rate of interest is not available;

- During the intake process and at least once every three years thereafter.

## **7-I.D. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. However, the PHA is not required to verify income information in EIV at annual reexam when Safe Harbor verification is used to determine a family's income [Notice PIH 2023-27]. HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

#### ***EIV Income and IVT Reports***

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

##### PHA Policy

The PHA will obtain income and IVT reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income and IVT reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in resident files with the applicable annual or interim reexamination documents for the duration of the tenancy.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

However, the PHA will not use income information in EIV at annual reexamination when Safe Harbor verification is used to determine a family's income.

### ***EIV Identity Verification***

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

#### PHA Policy

The PHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When the PHA determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

### **Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

#### PHA Policy

The PHA will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

**[Insert any additional UIV sources used by the PHA]**

## **7-I.E. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

### **Written Third-Party Verification [Notice PIH 2018-18]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Written, third-party verification includes an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA [Notice PIH 2023-27].

PHAs may accept a statement dated within the appropriate benefit year for fixed income sources [Notice PIH 2023-27].

#### PHA Policy

Third-party documents provided by the family must be dated within 120 days of the PHA request date. The PHA will accept a statement dated within the appropriate benefit year for fixed income sources.

If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

As verification of earned income, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

## **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail or email third-party written verification form requests to third-party sources.

### PHA Policy

The PHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

## **Oral Third-Party Verification [Notice PIH 2018-18]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

### PHA Policy

In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

## **When Third-Party Verification is Not Required [Notice PIH 2018-18]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

### PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### ***Imputed Assets***

The PHA may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

### PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

### ***Value of Assets and Asset Income [24 CFR 960.259]***

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process, whenever a family member is added, and at least every three years thereafter.

### PHA Policy

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

## 7-I.F. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or “tenant declaration,” is used as a last resort when the PHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$5,000 or less and the PHA has adopted a policy to accept self certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 9)

When the PHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

### PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.



## PART II: VERIFYING FAMILY INFORMATION

### 7-II.A. VERIFICATION OF LEGAL IDENTITY

#### PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

## **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2018-24]**

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available [Notice PIH 2023-27].

### PHA Policy

The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

### PHA Policy

The PHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

### PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

### PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously-assisted occupancy.

### PHA Policy

The PHA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

### PHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the PHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

## **7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

### PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

## **7-II.D. FAMILY RELATIONSHIPS**

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

### PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

### **Marriage**

#### PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

### **Separation or Divorce**

#### PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a divorce or separation, the PHA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

### **Absence of Adult Member**

#### PHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the PHA so requests.

### **Foster Children and Foster Adults**

#### PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## **7-II.E. VERIFICATION OF STUDENT STATUS**

### PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a childcare deduction to enable a family member to further their education.

## **7-II.F. DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

## **Family Members Receiving SSA Disability Benefits**

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

### PHA Policy

For family members claiming disability who receive disability payments from the SSA, the PHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the PHA will request a current (dated within the appropriate benefit year) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the PHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from [www.ssa.gov](http://www.ssa.gov). Once the family receives the benefit verification letter, they will be required to provide the letter to the PHA.

## **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

### PHA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)]

### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### PHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

### **Eligible Immigrants**

#### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

#### ***PHA Verification*** [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

### PHA Policy

The PHA offers a preference for working families, described in Section 4-III.B.

The PHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

The PHA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

The PHA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-VII.D.

## PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### 7-III.A. EARNED INCOME

#### Tips

##### PHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

#### Wages

##### PHA Policy

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

### 7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

##### PHA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

#### **Social Security/SSI Benefits**

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the appropriate benefit year) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the appropriate benefit year) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

### 7-III.D. ALIMONY OR CHILD SUPPORT

#### PHA Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 60 days prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

**Note:** Families are not required to undertake independent enforcement action.

## 7-III.E. ASSETS AND INCOME FROM ASSETS

### Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### PHA Policy

The PHA will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

## **7-III.F. NET INCOME FROM RENTAL PROPERTY**

### PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

## 7-III.G. RETIREMENT ACCOUNTS

### PHA Policy

The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

*Before* retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

*Upon* retirement, the PHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### 7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

#### PHA Policy

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-III.I. ZERO INCOME FAMILIES [Notice PIH 2023-27]**

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.

In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)].

PHAs may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications be notarized.

PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

#### PHA Policy

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income. The PHA will conduct interims in accordance with PHA policy in Chapter 11.

## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

## **7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION**

Policies related to health and medical care expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **Amount of Expense**

#### PHA Policy

Health and medical care expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for health and medical care expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

### **Qualified Expenses**

To be eligible for the health and medical care expense deduction, the costs must qualify as health and medical care expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a health and medical care expense.

## **Unreimbursed Expenses**

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

### PHA Policy

The family will be required to certify that the health and medical care expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

## **Expenses Incurred in Past Years**

### PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

## **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **Amount of Expense**

#### ***Attendant Care***

##### PHA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled 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 for the upcoming 12 months.

#### ***Auxiliary Apparatus***

##### PHA Policy

Expenses for auxiliary apparatus 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 upcoming 12 months.

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 upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### PHA Policy

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). 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 frees a family member, or members (possibly including the family member receiving the assistance), to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### PHA Policy

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

#### **7-IV.D. CHILDCARE EXPENSES**

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

#### **Eligible Child**

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

#### **Unreimbursed Expense**

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

#### PHA Policy

The family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

## **Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### PHA Policy

#### *Information to be Gathered*

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

#### *Seeking Work*

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### *Furthering Education*

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

#### *Gainful Employment*

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

## **Allowable Type of Childcare**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### PHA Policy

The PHA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

The PHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

## **Reasonableness of Expenses**

Only reasonable childcare costs can be deducted.

### PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**Exhibit 7-1: Summary of Documentation Requirements for Noncitizens  
[HCV GB, pp. 5-9 and 5-10]**

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

**Elderly Noncitizens**

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

**All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following:             <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by:             <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
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<ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul>	<ul style="list-style-type: none"> <li>• Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</li> </ul>
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- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*



## **Chapter 7.B.**

### **VERIFICATION UNDER HOTMA 102/104**

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

#### **INTRODUCTION**

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 7.A. of the model policy.

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

#### **PART I: GENERAL VERIFICATION REQUIREMENTS**

##### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]**

###### **Consent Forms**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886-A, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

## **Form HUD-9886-A [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]**

All adult applicants and tenants must sign form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886-A at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

### PHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A at the family's next annual or interim reexamination, whichever is earlier within 10 business days of turning 18 years of age.

The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act ([12 U.S.C. 3401](#)), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

## **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA must deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the PHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance ~~or admission~~ [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

### PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.

In order for a family to revoke their consent, the family must provide written notice to the PHA.

Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify the local HUD office.

## **7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Tax Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

### PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or ~~child care~~childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or ~~child care~~childcare expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size;

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual ~~reexam-reexamination~~ will not be considered. If the family has a change in income that occurs after the annual ~~reexam-reexamination~~ effective date, the PHA will conduct an interim ~~reexam-reexamination~~ if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the PHA will use third-party verification to verify the change.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

### PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

~~Regardless of the percent of a family's unadjusted income from fixed income sources: If 90 percent or more of a family's unadjusted income is from fixed income sources:~~

~~The PHA will streamline the annual reexamination process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.~~

~~The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.~~

~~The PHA will document in the file how the determination that a source of income was fixed was made.~~

~~If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income. The PHA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed income sources.~~

~~The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.~~

~~The PHA will document in the file how the determination that a source of income was fixed was made.~~

~~Third party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.~~

~~If the family's sources of fixed income have changed from the previous year, the PHA will obtain third party verification of any new sources of fixed income.~~

~~When less than 90 percent of a family's unadjusted income consists of fixed income:~~

~~The PHA will apply a COLA to each of the family's sources of fixed income.~~

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed the HUD-published threshold (\$50,000 for 2024, and \$51,600 for 2025) \$50,000;

Of all deductions and allowances from annual income;

## 7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds the HUD-published threshold, as listed in HUD’s Inflation-Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025\$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third-party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as “tenant-provided verification”
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

### File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family’s file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

## 7-I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

### ~~Upfront Income Verification Using~~ HUD's Enterprise Income Verification (EIV) System

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

#### *EIV Income ~~and IVT~~ Reports*

PHAs are required to obtain an EIV Income ~~and IVT~~ Report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income ~~and IVT~~ Reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-tested federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income ~~and IVT~~ Reports is also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

#### PHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain an EIV Income and IVT reports Report for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations- as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

#### ***New Hires Report [Notice PIH 2023-27]***

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

#### PHA Policy

In accordance with PHA policies in Chapter 9, the PHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will only review the New Hires Report at annual reexamination.

### ***No Income Reported by HHS or SSA Report***

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

#### **PHA Policy**

The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

### ***EIV Identity Verification Report***

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system, and no income information will be displayed.

#### **PHA Policy**

The PHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the PHA determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

## 7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

### **EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

#### PHA Policy

At annual reexamination, if the PHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the PHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

~~The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with using only the last two quarters of income listed in EIV, because of the seasonal or otherwise fluctuating nature of a particular family member's employment, the PHA will permit the family to sign a self-certification stating that the average of all four quarters of income listed in EIV is accurate and representative of current annual income and use that amount for calculating annual income. If the family disagrees and contends that the amount listed in EIV is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below. The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.~~

The PHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

## Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. The PHA may use the verification obtained during an interim reexamination for an annual reexamination if there have been no other changes to annual income since the interim reexamination. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

### 7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets are less than or equal to the HUD-published threshold (\$50,000 for 2024, and \$51,600 for 2025) total \$50,000 or less and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family reports zero income;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications verification for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

#### PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).”

## 7-II.E. VERIFICATION OF STUDENT STATUS

### PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a ~~child care~~childcare deduction to enable a family member to further their education.

## 7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

## **Family Members Receiving SSA Disability Benefits**

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

### PHA Policy

For family members claiming disability who receive disability payments from the SSA, the PHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the PHA will request a current (dated within the ~~last 60-~~ days appropriate benefit year) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the PHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from [www.ssa.gov](http://www.ssa.gov). Once the family receives the benefit verification letter, they will be required to provide the letter to the PHA.

## **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

### PHA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **Eligible Immigrants**

### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

### ***PHA Verification*** [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

### PHA Policy

The PHA offers a preference for working families, described in Section 4-III.B.

The PHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

The PHA may also seek third-party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

The PHA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-VII.D.

## PART III: VERIFYING INCOME AND ASSETS

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### PHA Policy

The following policies do not apply when the PHA uses a Safe Harbor income determination from a means-tested federal assistance program.

### 7-III.A. EARNED INCOME

#### Tips

### PHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

#### Wages

### PHA Policy

When the PHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

### 7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

#### Social Security/SSI Benefits

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the ~~last 120 calendar days~~appropriate benefit year) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the ~~last 120 calendar days~~appropriate benefit year) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

### 7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

#### PHA Policy

~~The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.~~

~~If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:~~

Copies of the receipts and/or payment stubs for the 12 months prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family’s self-certification of amount received

*Note:* Families are not required to undertake independent enforcement action.

### 7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

#### PHA Policy

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

## 7-III.F. ASSETS AND INCOME FROM ASSETS

### Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables (\$50,000 for 2024, \$51,600 for 2025 totaling \$50,000 or less (adjusted annually)), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed the HUD-published threshold \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed the HUD-published threshold \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

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

When net family assets have a total value over the HUD-published threshold \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed the HUD-published threshold \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### PHA Policy

For families with net assets less than or equal to the HUD-published threshold listed in the current year's Inflation-Adjusted Values table totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show the total amount of income expected from all assets. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

## Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2); Notice PIH 2023-27]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 ~~and 13~~. ~~At admission and reexam, t~~The PHA may accept a self-certification from the family stating that the family does not have any present ownership in any real property ~~that is suitable for occupancy~~. If the family certifies that they do not have any present ownership interest in real property, the PHA may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the PHA must obtain third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

### PHA Policy

~~Both at admission and reexam, t~~The PHA will accept self-certification from the family stating that the family does not have any present ownership in any real property. The certification must be signed by all family members 18 years of age and older.~~The PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older.~~ The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### ~~7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE~~

~~The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].~~

#### PHA Policy

~~The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.~~

~~The PHA will verify the value of assets disposed of only if:~~

~~The PHA does not already have a reasonable estimation of its value from previously collected information, or~~

~~The amount reported by the family in the certification appears obviously in error.~~

~~Example 1: An elderly resident reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.~~

~~Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.~~

### ~~7-III.HG. NET INCOME FROM RENTAL PROPERTY~~

#### PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.H. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS**

[Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables (\$50,000 for 2024, \$51,600 for 2025 equal to or below \$50,000 (adjusted annually for inflation)), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than the HUD-published threshold \$50,000.

### **7-III.J. RETIREMENT ACCOUNTS**

#### PHA Policy

The PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### 7-III.KJ. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

#### PHA Policy

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-III.LK. ZERO INCOME REVIEWS-FAMILIES [Notice PIH 2023-27]**

~~A zero income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.~~

In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)].

PHAs may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications be notarized.

PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

#### PHA Policy

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 9.

### **7-III.ML. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. ~~Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].~~ Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are ~~excluded~~included [24 CFR 5.609(b)(9)(ii)].

#### PHA Policy

The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

#### **7-IV.D. CHILD-CARE EXPENSES**

Policies related to child-care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child-care.
- The costs are reasonable.

#### **Eligible Child**

To be eligible for the child-care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

#### **Unreimbursed Expense**

To be eligible for the child-care deduction, the costs must not be reimbursed by another source.

#### PHA Policy

The family and the care provider will be required to certify that the child-care expenses are not paid by or reimbursed to the family from any source.

## **Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### PHA Policy

#### *Information to be Gathered*

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

#### *Seeking Work*

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### *Furthering Education*

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

#### *Gainful Employment*

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

## **Allowable Type of Child-Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### PHA Policy

The PHA will verify that the type of child-care selected by the family is allowable, as described in Chapter 6.

The PHA will verify that the fees paid to the child-care provider cover only child-care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child-care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

## **Reasonableness of Expenses**

Only reasonable child-care costs can be deducted.

### PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## **8-I.F. PAYMENTS UNDER THE LEASE**

### **Rent Payments [24 CFR 966.4(b)(1)]**

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

The lease must contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed [24 CFR 966.4(q)].

### PHA Policy

The tenant rent is due and payable at the PHA-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the PHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

## Late Fees and Nonpayment [24 CFR 966.4(b)(3); 2024 CFR 966.4(q) and (r)]

### Notice PHH 2021-29

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The lease must also contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed [24 CFR 966.4(q)]. The PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)]. See Chapter 13 for additional requirements for notices of lease termination.

### PHA Policy

If the family fails to pay their rent by the fifth day of the month, and the PHA has not agreed to accept payment at a later date, a 30-day Notice to Vacate ~~(during nationwide emergency orders) or a 14-day Notice to Vacate (upon expiration of nationwide emergency orders)~~ will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises. The PHA will not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of \$10.00 or two percent (2%) of the past due monthly rent, whichever is less, will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. ~~A \$15.00 late processing fee will be assessed to residents who receive Notices to Vacate.~~ If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee will be charged to the family. The fee will be due and payable 14 days after billing.

## Maintenance and Damage Charges

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

### PHA Policy

When applicable, families will be charged for maintenance and/or damages according to the PHA's approved Maintenance Schedule of Charges. ~~current schedule~~. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due with the rent in the month in which they appeared on the rent statement. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for ~~eviction~~ termination.

## PART II: INSPECTIONS

### 8-II.A. OVERVIEW

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the ~~Inspection~~ Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each public housing unit prior to move-in and at move-out. The PHA may require additional inspections, in accordance with PHA policy. This part contains the PHA's policies governing inspections by the PHA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.

### 8-II.B. PHA-CONDUCTED INSPECTIONS

The PHA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

#### Types of PHA-Conducted Inspections

##### *Move-In Inspections* [24 CFR 966.4(i)]

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, must be provided to the tenant and retained in the resident file.

##### PHA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

## ***Special Inspections***

### PHA Policy

PHA staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

## ***Other Inspections***

### PHA Policy

Building exteriors, grounds, common areas and systems will be inspected according to the PHA's maintenance plan.

## **Notice of Entry**

### ***Non-emergency Entries [24 CFR 966.4(j)(1)]***

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

### PHA Policy

The PHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular PHA annual self-inspections, the family will receive at least two weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the PHA to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

### ***Emergency Entries [24 CFR 966.4(j)(2)]***

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

## EXHIBIT 8-1: SMOKE-FREE POLICY

In accordance with HUD regulations, the Housing Authority has adopted these smoke-free policies. The policies are effective as of Board approval date. The PHA will not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures. Smoking is also prohibited in outdoor areas within 25 feet from public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule.

The term “smoking” means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form. Prohibited tobacco products include water pipes or hookahs.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

### PHA POLICIES

#### Designated Smoking Areas (DSA)

BWCHA has established designated smoking areas at Lincoln Square, Chuckanut Square, and Washington Square. Residents using the designated smoking areas must extinguish all smoking materials and dispose of them safely in receptacles provided for that purpose.

BWCHA has not designated any smoking areas on any other BWCHA property. Residents may not discard smoking products on these properties.

## Electronic Nicotine Delivery Systems (ENDS)

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Use of ENDS is not permitted in public housing units, common areas, or in outdoor areas within 25 feet from housing administrative buildings.

### **Effective Date**

~~The PHA's effective date(s) of this smoke-free policy is/are as follows:~~

~~BWCHA adopted a smoke-free policy in October 2011 and requires an updated signature at each annual lease renewal.~~

### **Enforcement**

The PHA must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, the PHA will provide due process and allow residents to exercise their right to an informal settlement and formal hearing. The PHA will not evict a resident for a single incident of smoking in violation of this policy. Tenancy termination and eviction will be pursued only as a last resort. The PHA may terminate tenancy at any time for violations of the lease and failure to otherwise fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

Repeated violation of the smoke-free policy may rise to the level of other good cause for termination of tenancy.

## Chapter 9.A.

### REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

#### INTRODUCTION

This chapter is applicable until the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 9.B of the model policy.

With the exception of non-public housing over income families, the PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.



## **PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS [24 CFR 960.257]**

### **9-I.A. OVERVIEW**

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. PHAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to use of Safe Harbor income verifications. For any non-public housing over income families, the PHA may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The PHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains the PHA's policies for conducting annual reexaminations.

## **9-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 960.257]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

### PHA Policy

The PHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The PHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the PHA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the PHA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

## **9-I.C. SCHEDULING ANNUAL REEXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period [24 CFR 960.257(a)(1)].

### PHA Policy

Generally, the PHA will schedule annual reexaminations to coincide with the family's anniversary date. The PHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, the PHA will perform a new annual reexamination, and the anniversary date will be changed.

The PHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The PHA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

### PHA Policy

The PHA will notify the family of their annual reexamination informing them of the information and documentation that is necessary and the deadline for submission.

The notification will also inform families who may need to make alternate arrangements due to a disability that they may contact staff to request a reasonable accommodation of their needs.

If the family is unable to submit the necessary documentation, the family should contact the PHA in advance of the deadline. In all circumstances, if a family does not submit the necessary documentation, the PHA will send a second notification. If a family fails to comply, the family will be in violation of their lease and may be terminated.

An advocate, interpreter, or other assistant may assist the family in the reexamination process.

## **9-I.D. CONDUCTING ANNUAL REEXAMINATIONS**

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

### PHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or any stated deadline must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

## **Change in Unit Size**

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

## **Criminal Background Checks**

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

### PHA Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

### PHA Policy

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

## **Compliance with Community Service**

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

## 9-I.E. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

### PHA Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

**PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS**  
**[24 CFR 960.253(f)]**

**9-II.A. OVERVIEW**

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, the PHA must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

**9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION**

**Frequency of Reexamination**

PHA Policy

For families paying flat rents, the PHA will conduct a full reexamination of family income and composition annually.

**Reexamination Policies**

PHA Policy

In conducting full reexaminations for families paying flat rents, the PHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

### **9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)**

As noted above, full reexaminations are conducted every three years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

#### **Scheduling**

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

##### PHA Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the PHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

#### **Conducting Annual Updates**

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

##### PHA Policy

Generally, the family will not be required to attend an interview for an annual update. However, if the PHA determines that an interview is warranted, the family may be required to attend.

The PHA will notify the family of the annual update informing them of the information and documentation that must be provided to the PHA. The family will have 10 business days to submit the required information to the PHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension.

If the family’s submission is incomplete, or the family does not submit the information in the required time frame, the PHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the PHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

### ***Change in Unit Size***

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

### ***Criminal Background Checks***

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

#### **PHA Policy**

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

### ***Compliance with Community Service***

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

## **PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]**

### **9-III.A. OVERVIEW**

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies that describe the changes families are *required* to report, the changes families *may choose* to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

### **9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the PHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

#### PHA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 10 business days of the change.

#### **New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 966.4(a)(1)(v)].

#### PHA Policy

The family must inform the PHA of the birth, adoption, or court-awarded custody of a child within 10 business days.

## **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

### PHA Policy

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

## **Departure of a Family or Household Member**

### PHA Policy

If a family member ceases to reside in the unit, the family must inform the PHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

### **9-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

#### PHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

#### **PHA-initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

#### PHA Policy

The PHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the PHA will conduct an interim reexamination at the conclusion of the 24-month eligibility period.

If the family has reported zero income, the PHA will conduct an interim reexamination every three months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the PHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the PHA will conduct an interim reexamination.

The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

## **Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

### ***Required Reporting***

HUD regulations give the PHA the discretion to determine the circumstances under which families will be required to report changes affecting income.

#### PHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family must notify the PHA of changes in writing.

Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

### ***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The PHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

#### PHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, the PHA will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

## 9-III.D. PROCESSING THE INTERIM REEXAMINATION

### Method of Reporting

#### PHA Policy

The family may notify the PHA of changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval.

### Effective Dates

The PHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

#### PHA Policy

If the tenant rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, 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 in accordance with the policies in Chapter 16.

If the tenants rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.



## **PART IV: RECALCULATING TENANT RENT**

### **9-IV.A. OVERVIEW**

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]**

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

#### PHA Policy

Unless the PHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

### **9-IV.C. NOTIFICATION OF NEW TENANT RENT**

The public housing lease requires the PHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

#### PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

#### **9-IV.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

## Chapter 9.B.

### REEXAMINATIONS UNDER HOTMA 102/104

[24 CFR 960.257, 960.259, 966.4]

#### INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 9.A. of the model policy.

With the exception of non-public housing over income families, the PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income-Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Part V: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

## PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS

24 CFR 960.257

### 9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. With the exception of over-income families, who must have their income reviewed at 12 and 24 months, for flat rent families, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. For any non-public housing over income families, the PHA may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The PHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a “Ssafe Harbor” income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA’s policies related to streamlined income determinations and the use of Ssafe Harbor income verifications.

This part contains the PHA’s policies for conducting annual reexaminations.

## 9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe Harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed within the last reexamination cycle and there are no additional changes, the PHA must use the annual income from the interim to determine the family's total annual income, ~~provided there are no additional changes.~~ The PHA may use verification obtained from the interim for this step.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - ~~Paycheck~~ Paystub with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

#### PHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

## 9-I.F. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

### PHA Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively<sup>5</sup> to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively<sup>5</sup> from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

## 9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

### Reporting

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

#### PHA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 10 business days of the change.

~~The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.~~

### New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 966.4(a)(1)(v)].

## New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

### PHA Policy

Families must request PHA approval to add a new family member (other than due to birth, adoption, or court-awarded custody), live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), the PHA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the PHA. Exceptions will be made on a case-by-case basis.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

## ***Family Reporting***

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

### PHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing, including email. If the family provides oral notice, the PHA may also require the family to submit the changes in writing, including email.

Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification (which may be emailed) within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, ~~fax~~, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

## Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

### PHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively 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 PHA management operations. The PHA will decide to apply decreases retroactively on a case-by-case basis.

When the PHA applies the results of interim ~~decreases~~ increases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

## PART V: NON-INTERIM REEXAMINATION TRANSACTIONS

Notice PIH 2023-27

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations, but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child-care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first)(~~the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024~~);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period;
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/Updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the ~~8~~7/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

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

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

Hewson Family Total Annual Income: \$14,400

Current Family Circumstances: Income Reported on Reexamination Application

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

Samantha:  Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)  VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)  Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)	Fergus:  Wages: \$6,000
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Calculating Samantha’s Net Business Income

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

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

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

Calculating Samantha’s VA Pension Income

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

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

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

### Calculating Samantha's Child Support Income

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

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

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

### Calculating Fergus' Wages

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

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

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

~~Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian’s Fish ‘n’ Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:~~

~~Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and~~

~~Verify he is no longer employed at Claire’s Healthcare Supplies in accordance with HUD’s verification hierarchy and local policies.~~

~~The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire’s Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).~~

Calculating Fergus’ Other Non-Wage Income

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

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

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

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

<p>Samantha (Head of Household):</p> <p>Own business: \$18,000</p> <p>Pension: \$12,300</p> <p>Child support: \$1,200</p>	<p>Fergus (Co-head):</p> <p>Wages: \$9,360</p>
<p>Poole Family Total Annual Income: \$40,860</p>	

## **PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS**

### **10-III.A. OVERVIEW**

This part describes the PHA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

### **10-III.B. PET DEPOSITS**

#### **Payment of Deposit**

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

#### PHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. [Refundable pet deposits will be charged at 30% of the monthly approved public housing flat rent schedule or the specified amounts below, whichever is less.](#) Payment of a refundable pet deposit must be paid in full before the pet is brought on the premises:

Dogs - \$250.00

Cats - \$150.00

Caged Pets - \$150.00

Fish in aquarium - \$100.00

#### **Refund of Deposit [24 CFR 5.318(d)(1)]**

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

#### PHA Policy

The PHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The PHA will provide the resident with a written list of any charges against the pet deposit within ~~30~~ 10 business days of ~~vacating the unit. the move-out inspection.~~ If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

## 10-III.C. OTHER CHARGES

### Pet-Related Damages During Occupancy

#### PHA Policy

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident and are charged in accordance with BWCHA's approved Maintenance Schedule of Charges.

### Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

#### PHA Policy

~~A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.~~

~~Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charge until the conclusion of the grievance process.~~

~~Charges for pet waste removal are not part of rent payable by the resident. The PHA does not impose a pest waste removal charge.~~

## PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

### 10-IV.A. OVERVIEW

This part describes the PHA's policies for pet deposits and fees for those who reside in general occupancy developments.

### 10-IV.B. PET DEPOSITS

A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

#### Payment of Deposit

##### PHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. Refundable pet deposits will be charged at 30% of the monthly approved public housing flat rent schedule or the specified amounts below, whichever is less. Payment of a refundable pet deposit must be paid in full before the pet is brought on the premises:

Dogs - \$250.00

Cats - \$150.00

Caged Pets - \$150.00

Fish in aquarium - \$100.00

~~Pet owners are required to pay a pet deposit of \$200 in addition to any other required deposits. The deposit must be paid in full before the pet is brought on the premises.~~

~~The pet deposit is not part of rent payable by the resident.~~

#### Refund of Deposit

##### PHA Policy

The PHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The PHA will provide the resident with a written list of any charges against the pet deposit within ~~10-30 business days~~ of vacating the unit of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

## 10-IV.D. OTHER CHARGES

### Pet-Related Damages During Occupancy

#### PHA Policy

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident and are charged in accordance with BWCHA's approved Maintenance Schedule of Charges.

### Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

#### PHA Policy

~~A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.~~

~~Such charges will be due and payable 14 calendar days after billing.~~

~~Charges for pet waste removal are not part of rent payable by the resident. The PHA does not impose a pest waste removal charge.~~

## Chapter 11

### COMMUNITY SERVICE

#### INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: PHA Implementation of Community Service. This part provides PHA policy regarding PHA implementation and program design.

#### PART I: COMMUNITY SERVICE REQUIREMENT

##### 11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per 903.7(1)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement ~~that~~ into which the PHA has entered ~~into~~ or plans to enter ~~into~~.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

## Change in Status between Annual Determinations

### PHA Policy

#### Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the 12-month lease term, it is the family's responsibility to report this change to the PHA within 10 business days.

Within 10 business days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30-day notice.

#### *Determination of Initial Compliance*

When an adult family member becomes subject to community service, they must perform 8 hours of community service for the months they are subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/~~15~~ and is not exempt from the community service requirement. His community service requirement begins on 6/1/~~15~~, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/~~15~~.

- Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: Lisa Dewhurst leaves her job on 9/20/~~14~~ and is not exempt from the community service requirement. Her community service requirement begins on 10/1/~~14~~, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/~~15~~.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

## PART II: TERMINATION BY PHA – MANDATORY

### 13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. The PHA must establish policies for termination of the lease in these cases where termination is optional for the PHA.

For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the PHA to terminate the lease.

**Upon the PHA's HOTMA 102/104 compliance date, the below section on failure to provide consent is added:**

### 13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The PHA must terminate the lease if any family member fails to sign and submit any consent form they are required to sign for any reexamination.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

#### PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in termination of assistance in accordance with PHA policy.

See Chapter 7 for a complete discussion of consent requirements.

### 13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The PHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

**13-II.J. OVER\_INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]**

In the public housing program, an *over-income family* is defined as a family whose annual income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:

- Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or
- Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

~~However, a PHA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, the PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.~~

PHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, the PHA will terminate the family's tenancy.

All PHAs, regardless of size, must implement over-income policies. However, if a PHA owns or operates fewer than 250 public housing units and admits families whose annual income exceeds the low-income limit because there are no income-eligible families on the PHA's waiting list in accordance with 24 CFR 960.503, the over-income limit regulation does not apply to tenant families [24 CFR 960.503]. This regulation is unrelated to HOTMA 103 [24 CFR 960.507]. This is because these families are considered unassisted tenants are not participants in the public housing program.

**Over-Income Limit [Notice PIH 2023-03; [HOTMA 103 FAQs, December 2024](#)]**

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. When determining whether a family is over-income, the PHA must use the applicable income limit for the current number of family members, not including any household members. Further, the over-income limit is based on the family’s annual income, rather than their adjusted income.

PHA Policy

The PHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

<b>Family Size</b>	1	2	3	4	5	6	7	8
<b>Over-Income Limit</b>	\$91,080	\$104,160	\$117,120	\$130,080	\$140,520	\$150,960	\$161,400	\$171,720

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

**Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03;  
HOTMA 103 FAQs, December 2024]**

The PHA is required to provide over-income families with three notifications within 30 days of the following points: at the initial determination when a family's income first exceeds the limit, at 12 months after the family continues to exceed the limit, and at 24 months of continuously exceeding the limit. If proper notice is not given, the PHA is required to continue to allow the family to stay in the unit until all three notices have been given.

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the ~~income examination~~. PHA's initial over-income determination. The 24 consecutive month grace period begins on the date the PHA notifies the family (for example, the post date of the notice).

The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

PHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, the PHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA's over-income policies. The notice will state that the family may request a hearing if the family disputes the PHA's determination in accordance with PHA policies in Chapter 14. The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

## **Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]**

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.

However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

### PHA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, the PHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the PHA's determination in accordance with PHA policies in Chapter 14. The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

**Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509;  
Notice PIH 2023-03; Notice PIH 2023-27; HOTMA 103 FAQs, December 2024]**

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over-income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

PHA Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, the PHA will notify the family in writing of the determination. The family will be issued a subsequent termination of tenancy notice in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

## PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

### 13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must adopt policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. In the development of the terms of the lease, the PHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA also has the option to terminate the tenancies of certain over-income families [\(See 13-II.J\)](#).

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's lease.

**Upon the PHA's HOTMA 102/104 compliance date, the below section on the asset limitation is added:**

**Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]**

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

PHA Policy

The PHA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to the PHA's public housing program.

**13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY**

**Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]**

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy.

Additionally, under the Violence against Women Act, the PHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

PHA Policy

The PHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon PHA request.

**Repayment of Family Debts**

PHA Policy

If a family owes amounts to the PHA, as a condition of continued occupancy, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

## 13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3); Notice PIH 2021-29]

### Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 966.4(m)]. Notices of lease termination must be provided in accessible formats to ensure effective communication for individuals with disabilities, and the notice must provide meaningful access for persons with LEP.

All notices of lease termination due to a tenant's failure to pay rent must also include:

- Instructions on how the tenant can cure the nonpayment of rent violation, including:
  - An itemized amount separated by month of alleged rent owed by the tenant;
  - Any other arrearages allowed by HUD and included in the lease separated by month; and
  - The date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;
- Information on how the tenant may recertify their income, request a minimum rent hardship exemption, or a request to switch from flat rent to income-based rent; and
- In the event of a Presidential declaration of a national emergency, information as required by HUD.

For notices of lease termination due to a tenant's failure to pay rent, the PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

If the tenant pays the full amount of the alleged rent owed but not the arrearages, the nonpayment will still be considered cured, and an eviction for nonpayment of rent cannot be filed. However, HUD emphasizes that the protections in this rule do not apply to other types of evictions that result from non-rent lease violations, such as nonpayment of arrearages if allowed under the lease.

HUD also suggests the termination notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request a reasonable accommodation, and include a point of contact for reasonable accommodation requests.

#### PHA Policy

The notice of lease termination will include information on how the family may request a reasonable accommodation for persons with disabilities and provide contact information for the PHA's 504 coordinator.

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

### PHA Policy

~~If the PHA offers remote hearings~~When applicable, the notice will also state that the resident may request a remote hearing.

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the PHA will provide technical assistance, if needed, before the hearing.

~~Further, during the period of time for which HUD determines that a national emergency requires additional time for families to secure funding, all termination notifications for nonpayment of rent must include, at a minimum, the language provided in the Appendix of Notice PIH 2021-29.~~

~~When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.~~

When the PHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the PHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for a drug-related criminal activity on or off the premises.

## Timing of the Notice [24 CFR 966.4(l)(3)(i); ~~24 CFR 966.8; Notice PHH 2021-29~~]

The PHA must give written notice of lease termination of:

- ~~• During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 days from the date the tenant receives the notice in the case of failure to pay rent~~
- At least 30 ~~When such emergency is not present, 14~~ calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)
  - If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened
  - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
  - If any member of the household has been convicted of a felony
- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

### PHA Policy

The PHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent, which will not be provide to tenants until the day after the day rent is due. ~~(during nationwide emergency orders) or 14 calendar days from the date the tenant receives the notice for nonpayment of rent (upon expiration of nationwide emergency orders).~~

For all other lease terminations, the PHA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with ~~or~~ (run concurrently) or may run consecutive to the notice of lease termination. ~~with the notice of lease termination.~~

### PHA Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will be combined with the Notice of Lease Termination under this section.

### 14-III.C. APPLICABILITY [24 CFR 966.51]

Grievances could potentially address most aspects of a PHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

If HUD has issued a due process determination, a PHA may exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: PHAs may use expedited grievance procedures for the excluded categories listed above. These expedited grievance procedures are described in Section 14-III.E. below.

If HUD has issued a due process determination, the PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

#### PHA Policy

The PHA is located in a HUD-declared due process state. Therefore, the PHA will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

~~The PHA will grant opportunity for grievance hearings for lease terminations, except when the termination is due to a covered person engaging in any drug-related criminal activity or criminal activity that threatens the health, safety or right to peaceful enjoyment of other tenants or PHA employees.~~

See Chapter 13 for related policies on the content of termination notices.

## **IX. Remote Hearings**

The PHA has the authority to require that hearings be conducted remotely in certain situations.

## **X. Failure to appear at the hearing**

If the tenant does not arrive within ~~15~~30 minutes of the scheduled time, it will be considered a failure to appear, which means they have given up their right to a hearing.

Both the tenant and the PHA must be notified of the determination by the hearing officer. A determination that the tenant has waived their right to a hearing will not constitute a waiver of any right the tenant may have to contest the PHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

## **XI. Decision of the hearing officer [24 CFR 966.57]**

The hearing officer will prepare a written decision together with the reasons for the decision within 10 business days after the hearing. A copy of the decision will be sent to the tenant and the PHA.

The PHA will retain a copy of the decision in the tenant's file.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date before reaching a decision. If the family misses a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.

The decision of the hearing officer will be binding on the PHA unless the PHA's Board of Commissioners determines within a reasonable time and notifies the tenant of its determination that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the tenant's lease or PHA regulations, which adversely affect the tenant's rights, duties, welfare, or status; or
- B. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the PHA.

When the PHA considers the decision of the hearing officer to be invalid for either of the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board will have 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the tenant within 10 business days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the tenant, in whole or in part, will not constitute a waiver of nor affect in any way the tenant's right to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].

## 15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

**The following policy is effective upon the PHA's HOTMA 102/104 compliance date:**

### **De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]**

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

#### PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA

Confidential records of all emergency transfers related to VAWA requested under the PHA's Emergency Transfer Plan and the outcomes of such requests

Other records as determined by the PHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

## **16-V.C. RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

### PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886-A, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

### **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

### PHA Policy

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emergency technologies

#### 16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

##### Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

##### PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A [copy of Form HUD-5380, Notice of eOccupancy #Rights under VAWA](#) to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of [Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation](#) (see Exhibit 16-2)

A copy of the PHA's emergency transfer plan (Exhibit 16-3)

A copy of [Form HUD-5383, HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking](#), Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

## **Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

### PHA Policy

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 16-1 and 16-2.

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include such information in all notices of denial of assistance (see section 3-III.FG).

The PHA will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The PHA will also include such information in all lease termination notices (see section 13-IV.DE).

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

### PHA Policy

Whenever the PHA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

# HOTMA 102/104 Appendix to the ACOP

## Purpose of the Appendix

HUD published a final rule on February 14, 2023, revising regulations related to income, assets, adjusted income, verification, and reexams (among others) to implement Sections 102 and 104 of HOTMA. While the new regulations were effective January 1, 2024, HUD has delayed the compliance date for HOTMA 102/104. Initially, HUD published a delayed compliance date of January 1, 2025, but HUD again delayed the compliance date for HOTMA 102/104 and no new date has been provided. *Compliance* with Sections 102 and 104 of HOTMA means not only applying HOTMA 102/104 regulations to affected programs but also reporting in HUD's new Housing Information Portal (HIP) system. Currently, PHAs remain unable to comply with HOTMA 102/104 because compliance depends on transitioning from HUD's IMS/PIC system (which is unable to accept HOTMA-compliant Form HUD-50058) to HUD's new HIP system (which will be the only system that accepts HOTMA-compliant Form HUD-50058). PHAs cannot transition to HOTMA until HIP is in place, HOTMA-compliant, and accessible. However, HUD has determined that a few HOTMA 102/104 policies are not dependent on transition systems and easily isolated from other HOTMA 102/104 policy changes. These policies may be implemented prior to the migration to HIP.

HUD stated that PHAs may update their policy documents before determining the date at which they will transition to all HOTMA Section 102 and 104 policies. HUD stated that in order to update their policy documents for HOTMA in this circumstance, PHAs may create an appendix that contains the HOTMA policies that will be incorporated at a later date. The model policy adopts such an approach. HOTMA 102/104 policies are provided in each affected area of the model policy. However, with the exception of the policies HUD has indicated may be adopted early, HOTMA policies that are "on hold" are indicated in the model policy as such. Further, an appendix has been provided to explicitly call out those policies that are on hold.

# HOTMA 102/104 Policies Not Yet Implemented

## Chapter 00

No HOTMA 102/104 policies apply.

## Chapter 1

No HOTMA 102/104 policies apply.

## Chapter 2

No HOTMA 102/104 policies apply.

## Chapter 3

Model policy section <b>3-I.B. FAMILY AND HOUSEHOLD</b> is amended to comply with section E.1 of Notice PIH 2023-27, <b>Definition of Family</b>
Model policy section <b>3-I.K. FOSTER CHILDREN AND FOSTER ADULTS</b> is amended to comply with section E.2 of Notice PIH 2023-27, <b>New Definitions of Foster Adult and Foster Child</b>
Model policy section <b>3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION</b> is amended to comply with section J.2 of Notice PIH 2023-27, <b>Revocation of Consent</b>
Model Policy section <b>3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS</b> is added to comply with section A.1 of Notice PIH 2023-27, <b>Asset Limitation</b>

## Chapter 4

No HOTMA 102/104 policies apply.

## Chapter 5

No HOTMA 102/104 policies apply.

## Chapter 6

Prior to the PHA's HOTMA compliance date, the PHA will follow policies in Chapter 6.A.

Upon the PHA's HOTMA compliance date, the PHA will follow policies in Chapter 6.B.

## Chapter 7

Prior to the PHA's HOTMA compliance date, the PHA will follow policies in Chapter 7.A.

Upon the PHA's HOTMA compliance date, the PHA will follow policies in Chapter 7.B.

## Chapter 8

No HOTMA 102/104 policies apply.

## Chapter 9

Prior to the PHA's HOTMA compliance date, the PHA will follow policies in Chapter 9.A.

Upon the PHA's HOTMA compliance date, the PHA will follow policies in Chapter 9.B.

## Chapter 10

No HOTMA 102/104 policies apply.

## Chapter 11

No HOTMA 102/104 policies apply.

## Chapter 12

No HOTMA 102/104 policies apply.

## Chapter 13

Model policy section **13-II.B. FAILURE TO PROVIDE CONSENT** is amended to comply with section J.2 of Notice PIH 2023-27, **Revocation of Consent**

Model Policy section **13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION** is amended to comply with section A.1 of Notice PIH 2023-27, **Asset Limitation**

## Chapter 14

No HOTMA 102/104 policies apply.

## Chapter 15

Model policy section **15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE** is amended to comply with 24 CFR 5.609(c)(4), **De Minimis Errors**

## Chapter 16

No HOTMA 102/104 policies apply.

## Glossary

The following definitions are applicable upon the PHA's implementation of HOTMA 102/104:

- Annual income (revised)
- Day laborer
- De minimis error
- Earned income
- Family (revised)
- Foster adult
- Foster child
- Independent contractor
- Inflationary index
- Net family assets (revised)
- Real property
- Seasonal worker
- Unearned income



# Bellingham & Whatcom County Housing Authorities

333 N Samish Way  
Bellingham, WA 98225

P.O. Box 9701  
Bellingham, WA 98227

Phone: (360) 676-6887  
Toll Free: (888) 585-3808  
Fax: (360) 527-4630  
TTY: (800) 833-6384

[www.bellinghamhousing.org](http://www.bellinghamhousing.org)

## PUBLIC HOUSING LEASE AGREEMENT

**RESIDENT NAME(S):**

**ADDRESS OF RESIDENCE:**

**UNIT NO.:** (the "Unit")

**BEDROOM SIZE:**

**EFFECTIVE LEASE DATE:**

**ANNUAL REVIEW DATE:**

### MOVE-IN COSTS

Base or Pro-rated Rent:	_____
Security Deposit:	_____
Pet Deposit:	_____
Due:	Due at lease signing or as outlined in a deposit agreement.

### RENT AND OTHER PERIODIC CHARGES

Base Rent:	_____
Base Rent Due Date:	Rent is due on the 1 <sup>st</sup> of each month.
Rent Payable To:	Bellingham Housing Authority Post Office Box 1707 Bellingham, WA 98227-1707

Utility Charges:	_____
Late Fee:	\$0
Insufficient Funds Fee:	Equal to the actual costs incurred by BWCHA imposed by its financial institution.
Lease Violation:	\$25 for Repeated Lease Violations, not to exceed \$75 in any given month.
Maintenance Charges:	Charged in accordance with BWCHA's approved Maintenance Schedule of Charges. Charges outside of this schedule will be charged at actual charge.
Fees/Charges Due Dates:	Two weeks following notice of the charge or by the due date on the notice.

**1. LEASE OF RESIDENCE**

- a. The parties to this Agreement are the Bellingham/Whatcom County Housing Authority (“BWCHA”), and \_\_\_\_\_ (“Tenant”). BWCHA leases to Tenant(s) the Unit as listed above, in the project known as \_\_\_\_\_ (the “Housing Development”).
- b. The term of this Lease shall be from \_\_\_\_\_ to \_\_\_\_\_. Unless otherwise modified or terminated in accordance with this Lease or the United States Department of Housing and Urban Development (“HUD”) regulations, tenancy is for one year and will automatically be renewed for successive terms of one calendar year.
- c. Occupancy of the residence is limited to the following Members of Tenant’s Household:

Name	Relationship

Tenant must obtain advanced written approval of BWCHA for any additions to the Household Members named on the Lease, including Live-in Aides and foster children, but excluding natural births, adoptions, and court awarded custody. Such approval will be granted only if the new Household Members pass BWCHA's screening criteria and a unit of the appropriate size is available. Permission to add Live-in Aides and foster children shall not be unreasonably refused. Tenant must wait for BWCHA's approval before allowing additional persons to move into the Unit.

Tenant shall inform BWCHA of any new Household Members resulting from natural birth, adoption, or court-ordered custody within 14 days of the change in the Household. Tenant does not need to obtain approval from BWCHA for the addition of any new Household Members resulting from natural birth, adoption, or court-ordered custody.

Any person added to the Household in violation of this section is considered an unauthorized occupant. Failure on the part of Tenant to comply with this Section of the Lease is a serious violation of the material terms of the Lease for which BWCHA may terminate tenancy.

- d. Tenant shall have the right to exclusive use and occupancy of the Unit for Tenant and other Household Members listed on the Lease.
- e. Tenant understands and agrees that BWCHA enters into this Lease in reliance upon the representations and statements made by Tenant as to Tenant’s income, family composition and housing need in Tenant’s signed application. Tenant hereby agrees to rent from BWCHA the Unit indicated above, according to the terms and conditions attached to this Lease or posted on BWCHA property, and the ***BWCHA Admission and Continued Occupancy Policy***, all which are incorporated in this Lease by reference.
- f. Tenant acknowledges that the Unit, the Housing Development, and BWCHA property is not a security complex. BWCHA makes no representation or warranty that the Unit, the Housing Development, or BWCHA property is secure from theft or any other criminal act perpetrated by any other tenant or person.

## 2. RENT

- a. Tenant shall pay BWCHA monthly rent of \$ \_\_\_\_ (“Rent”). Rent is due on or before the first (1<sup>st</sup>) day of each calendar month beginning \_\_\_\_ . The pro-rated Rent payment for the period from \_\_\_\_ to \_\_\_\_ is \$ \_\_\_\_ and is due at the time this Lease is executed. Tenant shall pay Rent by personal check, money order, or cashier’s check. **For security reasons, BWCHA shall not accept cash payment of Rent.**
- b. Payment Location: Rent and other charges will not be accepted at BWCHA offices. Tenant shall mail all payments to:  
Bellingham Housing Authority  
Post Office Box 1707  
Bellingham, WA 98227-1707

If Tenant fails to pay monthly Rent by the fifth (5<sup>th</sup>) business day of each calendar month, then Rent is delinquent and Tenant is in material breach of this Lease.

- c. Payments by Tenant will be applied in the following order:
  - i. Any unpaid rent owed by Tenant;
  - ii. Tenant’s security deposit;
  - iii. Any maintenance, utilities, and legal costs;
  - iv. Any late fees incurred by Tenant.
- d. BWCHA shall collect from Tenant a fee equal to amount the actual costs charged to BWCHA by its financial institution anytime a check is not honored by a bank for payment or is returned due to insufficient funds (“NSF Fee”). In addition to the NSF Fee charge, BWCHA may require Tenant to make all future Rent payments by money order or cashier’s check.
- e. Rent shall remain the amount listed in this Section unless adjusted by BWCHA in accordance with this agreement and HUD regulations. Regular redeterminations will occur at annual renewal and interim redeterminations in accordance with the terms of this Lease and **BWCHA’s Admissions and Continued Occupancy Policy**.

## 3. SECURITY DEPOSIT

- a. Tenant shall deposit with BWCHA a security deposit of \$ \_\_\_\_ (the “Security Deposit”) as security for the full and faithful performance by Tenant of the terms and conditions of this Lease. The Security Deposit shall be held by BWCHA in trust in an account maintained at US BANK, located at 121 W Holly St, Bellingham, WA 98225. Any interest on the Security Deposit shall belong to BWCHA. Tenant does not have the right to apply the Security Deposit to payment of the last month’s Rent.
- b. If Tenant elects to pay the Security Deposit in installments, Tenant shall make the installment payments as outlined in the **BWCHA Security Deposit Installment Agreement** enclosed herewith. It is a material breach of this Lease if Tenant fails to pay any installment payment for the Security Deposit on the required due date and will result in BWCHA issuing a Pay or Vacate Notice.
- c. In the event of default under the terms of this Lease, BWCHA may apply the Security Deposit toward any such default, including without limitation, failure to timely pay Rent or failure to timely pay any utility charges. If BWCHA uses any portion of the Security Deposit pursuant to this paragraph during the term of the Lease, Tenant shall be obligated to replenish the Security Deposit within sixty (60) calendar days after BWCHA provides

notice to Tenant of use of the Security Deposit. Failure to replenish the Security Deposit shall be a default under the terms of this Lease.

- d. If Tenant, or anyone in the Unit or on BWCHA property as a result of Tenant, causes damage to the Unit or BWCHA property, BWCHA shall be entitled to deduct from the Security Deposit all amounts reasonably necessary to repair such damage. BWCHA may deduct costs for repair of damages at any time during the Lease term. If BWCHA uses any portion of the Security Deposit pursuant to this paragraph during the term of the Lease, Tenant shall be obligated to replenish the Security Deposit within sixty (60) calendar days after BWCHA provides notice to Tenant of use of the Security Deposit. Failure to replenish the Security Deposit shall be a default under the terms of this Lease.
- e. Upon termination of tenancy and/or the Lease, BWCHA has the right to apply the Security Deposit to remedy damages suffered or cost incurred by BWCHA due to any of the following:
  - i. To pay the cost of any rent or any other charges owed by Tenant at the termination of tenancy and/or this Lease, including without limitation, all cost for maintenance and repairs and unpaid utilities.
  - ii. To reimburse BWCHA for costs, including but not limited to, cleaning, removing items, and repairing any intentional or negligent damages to the Unit or BWCHA property caused by Tenant, Household Members, or guests. No refund of the Security Deposit will be made until Tenant has vacated, and BWCHA has inspected the Unit.

The return of a Security Deposit (if any) shall occur within 30 days after Tenant moves out or BWCHA has learned of abandonment. If any deductions are made, BWCHA will furnish Tenant with a written statement of any such costs for damages and/or other charges deducted from the Security Deposit. The refund and statement of charges will be mailed to Tenant's last known address. If such costs, charges, expenses, or damages exceed the amount of the Security Deposit, Tenant will immediately pay the difference and shall remain obligated for such excess charges, expenses, or damages after any termination of the Lease. If multiple adult Tenants are listed on the Lease, each Tenant shall be jointly and severally liable for any charges, expenses, or damages which exceed the amount of the Security Deposit. If Tenant vacates the Unit and owes a balance for any of the above reason, Tenant will not be eligible for re-admission to this, or any other housing program administered by BWCHA, until all outstanding charges have been paid in full.

- f. If Tenant or Tenant's estate disputes the deducted charges, Tenant or Tenant's estate may file a grievance pursuant to BWCHA procedures.

#### 4. UTILITIES

- a. Tenant shall pay for all utilities not furnished by BWCHA, and Tenant shall pay for all other utilities or services received by Tenant. BWCHA provides the following utilities as part of the rent:  
 Electricity  Gas  Heat  Water  Sewer  Garbage
- b. If Tenant resides in a development where BWCHA does not supply electricity, natural gas, heating, water, sewer service or garbage removal, BWCHA shall establish an allowance for utilities Tenant pays directly to the utility supplier (the "Utility Allowance") appropriate for the size and type of dwelling unit. BWCHA will provide Tenant with a monthly Utility Allowance in the amount of \$N/A, for the following utilities paid directly by Tenant to the Utility supplier:  
(\$N/A) Electricity (\$N/A) Gas (\$N/A) Heat (\$N/A) Water (\$N/A) Sewer (\$N/A) Garbage

If the Utility Allowance exceeds the total payment made by Tenant, BWCHA will refund any excess balance directly to Tenant ("Utility Reimbursement"). If Tenant's actual utility bill exceeds the Utility Allowance, Tenant shall be responsible for paying the difference between the Utility Allowance and the actual utility bill to the

Utility supplier. Failure to retain utility service or failure to make utility payments is a material breach of this Lease.

- c. BWCHA may change the Utility Allowance at any time during the term of the Lease, and shall give Tenant sixty (60) calendar day's written notice of the revised Utility Allowance along with any resultant changes in Rent or Utility Reimbursement. Tenant will be given a thirty (30) calendar day period to comment on the proposed revisions.
- d. Tenant agrees not to waste the utilities provided by BWCHA and to comply with any applicable law, regulation, or guideline of any governmental entity regulating utilities or fuels. Tenant also agrees to furnish heat sufficient to prevent damage to the Unit. If, for any reason, Tenant is unable to maintain sufficient heat, Tenant shall immediately notify BWCHA.
- e. BWCHA will not be responsible for failure to furnish utilities because of any cause beyond its control.

## 5. OTHER CHARGES

- a. Tenant shall pay other reasonable charges ("Other Charges") beyond normal wear and tear for repair or damage to the Unit or for unauthorized alteration to the Unit or common areas caused by Tenant, other Household Members, or guests. Other Charges shall be billed in accordance with the Schedule of Maintenance Charges as adopted by BWCHA or (for work not listed on the Schedule of Maintenance Charges) based on the actual cost to BWCHA for the labor and materials needed to complete the work and if overtime work is required, overtime rates shall be charged.
- b. BWCHA will accept payments of Other Charges separately from payments of Rent owed by Tenant. The failure of Tenant to pay Other Charges when due will constitute a material breach of the Lease. Other Charges will be due and payable two weeks after the Notice of Charges.

## 6. REDETERMINATION OF RENT AND OCCUPANCY

- a. Once a year, or more frequently as requested by BWCHA, Tenant, who elects to pay income-based rent, must provide BWCHA with a true and complete written verification of all family income including anticipated income from all sources, family composition, and any other information deemed pertinent by BWCHA, which will be reviewed by BWCHA to determine whether Rent being paid should be changed and/or if Tenant is still eligible for continued occupancy in the Unit. Tenant electing to pay "flat rent," and Tenant receiving a fixed income including but not limited to social security and Supplemental Security Income ("SSI"), shall have their incomes reexamined at least every three (3) years. If household composition changes requiring a change in Unit size, Tenant agrees to transfer to an appropriate size dwelling unit based on household composition upon one transfer offer by BWCHA. If Tenant refuses or fails to transfer to an appropriate size dwelling unit based on household composition (except for good cause refusal as set forth in the ***BWCHA Admissions and Continued Occupancy Policy***, such refusal shall be a material breach and BWCHA may terminate the tenancy. Each review and redetermination of Rent and occupancy in the Unit will be made in accordance with approved ***BWCHA Admissions and Continued Occupancy Policy*** which is incorporated into this Lease by reference.
- b. Failure on the part of Tenant to supply the required review paperwork when requested or misrepresentation of any required information is a material breach of the Lease and may result in termination or retroactive rent charges.
- c. BWCHA may begin processing the review prior to making a determination of whether or not to renew Tenant's Lease. BWCHA's action to begin the review shall not be deemed a waiver by BWCHA of its right to refuse renewal of a Tenant's Lease.

- d. Tenant shall have the continuing obligation to advise BWCHA of any change in circumstances relating to any information required to be provided, including income. All changes in household composition must be reported to BWCHA within fourteen (14) calendar days of the occurrence. Failure to report within the 14 calendar days may result in a retroactive rent charge. BWCHA will conduct Interim Redetermination's as detailed in the ***BWCHA Admissions and Continued Occupancy Policy***.
- e. Any Rent adjustment required as a result of the review will be completed in accordance with the ***BWCHA Admissions and Continued Occupancy Policy***. BWCHA shall give written notice to Tenant prior to any adjustment in Rent. The notice shall state the new amount of Rent due each month, and the commencement date from which the new amount of Rent is due. Rent redeterminations are subject to the Administrative Grievance Procedure provided in the ***BWCHA Admissions and Continued Occupancy Policy***. The notice shall also state that Tenant may ask for an explanation of how the amount is computed by BWCHA. If Tenant asks for an explanation, BWCHA shall respond in a reasonable time.
- f. Retroactive Rent:

If a Tenant fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be made effective on the first of the month after documentation is received. Tenant will be required to reimburse BWCHA for the difference between Rent that was paid and the payment that would have been required if reported timely. Tenant may be offered a repayment agreement.
- g. Notice:
  - i. BWCHA shall give Tenant thirty (30) calendar days advance notice of a Rent increase. The effective date of such increase shall be the first day of the month following the end of the 30-day period, except for an increase due to a change in utility allowance.
  - ii. In the case of a Rent decrease, the adjustment will become effective on the first day of the month.

## 7. TENANT OBLIGATIONS

Tenant shall comply with all rules and regulations now established or hereafter adopted or modified by BWCHA which include, but are not limited to, the ***BWCHA Admissions and Continued Occupancy Policy*** and Tenant Obligations. Tenant has the duty and obligation under this Lease to comply with the duties listed in this section, the breach of which shall constitute a material breach of the Lease.

- a. Tenant shall not to assign the Lease or sublease the Unit. Sublease includes, without limitation, Tenant receiving payment to cover Rent and utility costs by an adult living in the Unit who is not listed as part of Tenant's Household.
- b. Tenant shall not provide accommodation to boarders or lodgers.
- c. Tenant shall obtain BWCHA's prior written approval for the presence of any person not identified in Section 1(c) of this Lease as a Member of Tenant's Household who occupies the Unit for over fourteen (14) consecutive days or a total of thirty (30) days within any twelve (12) month period. Any guest that stays over the permitted time frames listed above without BWCHA's prior written approval will be considered unauthorized occupants.
- d. Tenant shall use the Unit solely as a private dwelling for Tenant and Tenant's Household and not to use or permit its use for any other purpose.

- e. Tenant shall abide by and assure Household Members and guests abide by all necessary and reasonable rules and regulations, including the **BWCHA Admissions and Continued Occupancy Policy**, established for the benefit and well-being of the Housing Development and BWCHA's tenants. These regulations are available in BWCHA's administrative office, on BWCHA's website and incorporated into this Lease by this reference. Violation of any regulation constitutes a breach of the Lease.
- f. Tenant, Household Members, guests, and anyone else under Tenant's control shall comply with the requirements of applicable state and local building or housing codes, materially affecting health and/or safety of Tenant, Household, and other BWCHA tenants.
- g. Tenant shall keep the Unit and such other areas including rear yards and/or patios as may be assigned to Tenant for Tenant's exclusive use, in a clean, sanitary, and safe condition, comply with housekeeping standards and to promptly notify BWCHA whenever repairs to Tenant's Unit is required. Tenant's obligation under this paragraph shall include, but is not limited to: cleaning windows, walls, floors, cabinets, refrigerators, ranges and ovens; and keeping any assigned yard area neat and clean (including mowing lawn areas, weeding beds and watering as necessary). In addition, Tenant shall keep the front and rear entrances and walkways free from hazards and trash and the yard free of debris and litter. Tenant shall keep patios, porches, landings, and other similar exterior areas in exclusive control of Tenant clean and tidy, and be clear of clutter, garbage, and debris. Patios, porches, landings, and other similar exterior areas shall not be used by Tenant for storage of personal items. Tenant is only allowed to keep patio approved furniture on patios, porches, landings, or other similar exterior areas in exclusive control of Tenant.
- h. **TENANT SHALL NOTIFY BWCHA PROMPTLY OF KNOWN NEED FOR MAINTENANCE OR REPAIRS TO THE UNIT.** Tenant shall notify BWCHA of known unsafe or unsanitary conditions in the Unit or in common areas and grounds of the Housing Development, or elsewhere on BWCHA property. Tenant's failure to report the need for repairs in a timely manner shall be considered to contribute to any damage that occurs.
- i. Tenant shall dispose of all garbage, rubbish, and other waste from the Unit in a sanitary and safe manner only in containers approved or provided by BWCHA. Tenant shall refrain from, and cause Members of Tenant's Household or guest to refrain from, littering or leaving trash and debris in common areas or elsewhere on BWCHA property. This includes leaving trash alongside the trash receptacles.
- j. Tenant, Household Members, guests, and anyone else under Tenant's control shall use only in reasonable and safe manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appurtenances including elevators. Tenant shall not use any apparatus for heating (space heaters, etc.) except for apparatuses provided by BWCHA or after first obtaining written consent of BWCHA.
- k. Tenant shall refrain from, and to assure Household Members, guests, and anyone else under Tenant's control refrain from destroying, defacing, damaging, or removing any part of Unit or other BWCHA property.
- l. Tenant shall pay reasonable charges (other than for ordinary wear and tear) for the repair of damages to the Unit, Housing Development, buildings, facilities, or common areas which are caused by Tenant, Household Members, guests, or anyone else under Tenant's control. Charges are imposed according to the Schedule of Charges posted at BWCHA office.
- m. Tenant shall act and assure Household Members, guests, or anyone else under Tenant's control act in a manner that will not disturb other tenants' peaceful enjoyment of their accommodations; and be conducive to maintaining all BWCHA properties in a decent, safe, and sanitary condition.
- n. Tenant shall refrain from, and assure Household Members, guests, and anyone else under Tenant's control refrain from the following:

- i. Committing a crime that subjects a Tenant or a Household Member to a lifetime sex offender registration requirement imposed by a state sex offender registration program.
  - ii. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of other tenants, BWCHA employees or the public.
  - iii. Any drug-related criminal activity on the Housing Development premises. For the purposes of this Lease, the term drug-related criminal activity means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substances Act –21 U.S.C. Section 802, as currently enacted or hereafter amended. This includes but is not limited to marijuana and the manufacture of methamphetamine (“Meth”) in the Unit or on the premises of BWCHA. Tenant acknowledges receipt and execution of **BWCHA Drug-Free Housing Policy** and the **Methamphetamine Monitoring and Remediation Policy & Procedures**, which are incorporated into this Lease by Reference.
  - iv. Illegal use of a drug or abuse or pattern of abuse of alcohol or marijuana that interferes with the health, safety, or right of peaceful enjoyment of other BWCHA tenants by Tenant or Household Members.
  - v. Acting or speaking in an abusive or threatening manner toward neighbors, other tenants and BWCHA staff.
  - vi. Allowing individuals who have been trespassed from BWCHA property onto BWCHA property.
  - vii. Displaying, using, possessing, or allowing Members of Tenant's Household or guests to display, use or possess, any illegal firearms, (operable or inoperable) or other illegal weapons as defined by the laws and courts of the State of Washington, or discharge any firearms, fireworks, pellet gun, BB gun, slingshot, bow and arrow, or any other instrument or device capable of launching a projectile of any type anywhere on BWCHA property.
  - viii. Storing or keeping highly volatile or flammable materials in the Unit or on BWCHA property, except with prior written approval from BWCHA. Tenant shall take reasonable precautions to prevent fires caused by, but not limited to, carelessness or unattended cooking.
- o. Tenant shall make no alterations, repairs or additions, including but not limited to: installing additional equipment or major appliances, painting, hanging wallpaper, changing locks, installing new locks on exterior doors, using no nails, tacks, screws, brackets, or fasteners on any part of the Unit (a reasonable number of picture hangers accepted) without the prior written approval of BWCHA.
  - p. Tenant shall not have a waterbed(s) in the Unit.
  - q. Tenant shall only use Barbecues and Grills within designated areas. Use of Barbecues and Grills, in or outside of the Unit, other than in common areas designated by BWCHA for Barbecues and Grills, is prohibited and constitutes a material breach of the Lease.
  - r. Tenant shall refrain from mounting, erecting, or hanging satellite dishes, radio, or television antennas on any part of the Unit, the Housing Development or BWCHA Property, without the prior written approval of BWCHA.
  - s. Tenant shall refrain from placing signs, placards, or banners of any type in or about the Unit except those allowed under applicable zoning ordinances and then only after having received prior written permission of BWCHA.
  - t. Tenant shall not keep any animals inside or outside the Unit unless permitted by the **BWCHA Admissions and Continued Occupancy Policy** or by State or Federal law, and, in the case of a pet, only after BWCHA and Tenant sign a **Pet or Service Animal Agreement** as an Addendum to this Lease.
  - u. Tenant shall only be allowed to park one (1) operable, passenger vehicles validly licensed in the name of Tenant only in designated areas at the Housing Development. Tenant may seek prior written approval from BWCHA for additional vehicles. Guests shall park only in designated parking areas which are not otherwise assigned to

residences. Tenant shall not allow guests to park in a manner which prohibits other tenants from access to designated areas closest to their Unit. Tenant shall not park any trailers, boats, commercial vehicles, truck campers, or other recreational vehicles at the Housing Development or on BWCHA property, except with prior written approval from BWCHA. Inoperable vehicles, unlicensed vehicles with expired registration, disabled vehicles of any kind, or vehicles that habitually leak oil or other hazardous substances shall not be parked at the Housing Development or elsewhere on BWCHA property, except with prior written approval from BWCHA. Any vehicle on BWCHA property in violation of these policies will be towed and removed from BWCHA property at Tenant's expense. Vehicles that are not operable, do not have current license tabs, are parked in areas not designated for vehicles or are deemed dangerous by BWCHA are subject to towing at the vehicle owner's expense. In addition, vehicles that have not moved in fourteen (14) calendar days will be considered abandoned and are subject to tow at the vehicle owner's expense. Tenant shall not wash vehicles or conduct automobile repairs and maintenance at the Housing Development or elsewhere on BWCHA property.

- v. Tenant shall clean the Unit and all equipment included with the Unit during tenancy (including drapes, blinds, appliances, and carpet, where furnished) immediately prior to vacating and shall return the Unit to BWCHA in as clean and sanitary condition as when Tenant took possession.
- w. Tenant shall remove any personal property left on BWCHA property when Tenant leaves, abandons or surrenders the Unit. Personal property left in the Unit after Tenant leaves, abandons, or surrenders the Unit to BWCHA shall be considered abandoned and will be disposed of by BWCHA according to the provisions of the Washington Residential Landlord Tenant Act – Chapter 59.18 RCW and as otherwise permitted by law. Costs for storage and disposal shall be assessed against Tenant.
- x. Tenant shall refrain from and to assure Household Members and guests refrain from smoking or vaping in the Unit or on BWCHA property except in areas designated by BWCHA. BWCHA Housing Developments are non-smoking.
- y. Tenant shall:
  - i. Not commit any fraud, including but not limited to: the misrepresentation of family income, asset or household composition, in connection with any Federal housing assistance program; and
  - ii. Not receive assistance for occupancy of any other unit assisted under any Federal housing assistance program during the term of the Lease.
- z. Tenant shall pay promptly any utility bills for utilities supplied to Tenant by a direct connection to the utility company, and to avoid disconnection of utility service for such utilities.
- aa. Tenant agrees to pay Rent and other payments when due. Failure to pay Rent as outlined in Section 2 of the Lease - Rent, or four (4) repeated late payments (which shall be defined as failure to pay the amount of Rent or other charges due by the fifth business day of each calendar month) within a 12-month period shall constitute a material breach of this Lease.
- bb. Tenant shall supply true and correct information, in a timely fashion, for any certification, release, information, or documentation on family income or composition needed to process annual reexaminations or interim redeterminations.
- cc. Tenant shall not cause serious or repeated damage to the Unit, creation of physical hazards in the unit, common areas, grounds, or parking areas of BWCHA property.
- dd. Tenant shall refrain from and assure that Household Members, guests, or other persons under Tenant's control refrain from interfering with the job responsibilities of authorized vendors, service personnel, or representatives of BWCHA.

- ee. Tenant shall physically occupy the Unit as Tenant's primary place of residence. Although Tenant continues to pay Rent and utilities, Tenant may not be absent from the Unit more than one hundred eighty (180) days without losing Tenant's rights to tenancy. Tenant may make a written request to BWCHA to have a longer absence approved. BWCHA has the full discretion of approval for such a request, and BWCHA will make determinations on case-by-case basis.
- ff. Tenant shall notify BWCHA of any Household Member that will be absent from the Unit for a period greater than thirty (30) calendar days. Tenant shall notify BWCHA within fourteen (14) calendar days of the start of the absence.
- gg. Tenant shall refrain from the use of the Unit address for any purpose by a non-Household Member.
- hh. Tenant shall allow BWCHA, upon advanced notification pursuant to Section 14 of this Lease – BWCHA Entry of Unit During Tenancy, to enter the Unit in order to complete fumigation for the control of vermin and/or roaches, or to perform repairs, maintenance, or other services such as painting or rehabilitation work. Tenant further agrees to have the Unit prepared on said date and time for repairs, maintenance, or other services and/or work.
- ii. Tenant shall maintain a noise level that will not disturb neighbors and to observe quiet hours in accordance with the City of Bellingham's noise ordinance, between the hours of 10 PM to 7 AM.
- jj. Tenant agrees that common areas, including laundry rooms, computer labs and community rooms are for the use of tenants only. Individuals assisting Tenant with these tasks should be accompanied by Tenant. Any personal property left in common areas is subject to removal at BWCHA discretion.
- kk. Tenant acknowledges they are subject to compliance with the Housing Opportunity Through Modernization Act of 2016 (HOTMA), families whose income exceeds 120 percent of the area median income for two consecutive years are no longer eligible for the public housing program and must vacate the Unit upon proper notice to vacate from BWCHA.

## **8. BWCHA OBLIGATIONS**

BWCHA shall:

- a. Maintain the Unit and the project in decent, safe, and sanitary condition.
- b. Comply with the requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety.
- c. Make necessary repairs to the Unit.
- d. Keep Housing Development buildings, facilities, and common areas, or other BWCHA property open to Tenant but not reserved for the exclusive use of Tenant, in a clean and safe condition.
- e. Maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators supplied or required to be supplied by BWCHA.
- f. Provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of Tenant and Tenant's Household) for the deposit of garbage, rubbish, and other waste which must be removed from the Unit by Tenant as provided in Section 7 of this Lease – Tenant Obligation.

- g. Supply running water and reasonable amounts of hot water and reasonable amount of heat as required by seasonal weather conditions, except where the building that includes the Unit is not required by law to be equipped for such purpose, or where heat or hot water is generated by an installation which is in the exclusive control of Tenant and is supplied by a direct utility connection.
- h. Publicly post in a conspicuous manner in BWCHA Management Office all rules and regulations and schedules incorporated by reference in this Lease, and to furnish copies thereof to Tenant upon request. Upon written request by Tenant, BWCHA will provide one replacement copy of the Lease free of charge during the tenancy. Any additional copies of the Lease will be provided to Tenant only after payment to BWCHA for the reasonable charge for making copies.
- i. Notify Tenant of any proposed adverse action by BWCHA. Such adverse action includes but is not limited to: a proposed Lease termination or termination of tenancy, transfer of Tenant and Household Members to another dwelling unit, or imposition of charges for maintenance and repair. When BWCHA is required to afford Tenant the opportunity for a hearing under the Grievance Procedure concerning a proposed adverse action, the notice of proposed adverse action shall inform Tenant of the right to request such hearing. In the case of a Lease termination or termination of tenancy, a notice of Lease termination or termination of tenancy shall constitute adequate notice of proposed adverse action. In the case of a proposed adverse action other than a proposed Lease termination or termination of tenancy, BWCHA shall not take the proposed action until the time for Tenant to request a grievance hearing has expired, or if a hearing was timely requested by Tenant, when the grievance process has been completed.
- j. Offer Tenant a choice to select an income-based Rent or a flat Rent.

## 9. TRANSFERS

- a. BWCHA may move Tenant into another dwelling unit if it is determined necessary to rehabilitate or demolish the Unit.
- b. If Tenant makes a written request for special unit features in support of a documented disability, BWCHA will attempt to modify Tenant's existing Unit. If the cost and extent of the modifications needed are tantamount to those required for a fully accessible unit, BWCHA will place Tenant on a transfer list to transfer to the next available dwelling unit with the features requested.
- c. A tenant without disabilities that is housed in a unit with special features designed to accommodate a tenant with disabilities must transfer to a dwelling unit without such features should a tenant with disabilities need the Unit.
- d. All transfers including those listed above and others will follow the policy as set forth in ***the BWCHA Admissions and Continued Occupancy Policy***.

## 10. SMOKE DETECTION DEVICE, CARBON MONOXIDE DETECTION DEVICE AND WATER HEATER

- a. Tenant acknowledges that the Unit is equipped with a smoke detection device as required in RCW 43.44.110. It is Tenant's responsibility to maintain the smoke detection device in proper operating condition, including replacing the batteries when required. Failure to do so can result in the imposition of fines and penalties against Tenant pursuant to RCW 43.44.110.
- b. If the Unit is in an apartment or other multi-family structure, Tenant acknowledges the following:
  - i. The smoke detection devices installed in the Unit are HARD WIRED
  - ii. The building in which the Unit is located DOES NOT contain a fire sprinkler system.

- iii. The building in which the Unit is located DOES contain a fire alarm system.
  - iv. The building in which the Unit is located DOES NOT have an emergency notification plan for the occupants.
  - v. If the building in which the Unit is located does have an emergency notification plan for occupants, Tenant acknowledges receipt of the same from BWCHA.
  - vi. The building in which the Unit is located DOES NOT have an emergency relocation plan for tenant. If the building in which the Unit is located does have an emergency relocation plan for tenants, Tenant acknowledges receipt of the same from BWCHA.
  - vii. The building in which the Unit is located DOES NOT have an emergency evacuation plan for tenants. If the building in which the Unit is located does have an emergency evacuation plan for tenants, Tenant acknowledges receipt of the same from BWCHA.
- c. Tenant acknowledges that as of the commencement of this Lease, the Unit is equipped with #1 Carbon Monoxide ("CO") detector(s) and that such CO detectors are HARD WIRED. Tenant has inspected the CO detector(s) and finds it/them to be in proper working condition. It is Tenant's responsibility to maintain the CO detection device(s) in proper operating condition, including replacing the batteries when required.
- d. Tenant agrees that it is Tenant's duty to regularly test the smoke detector(s) and/or CO detector(s). Tenant agrees to replace the smoke detector(s)' and/or CO detector(s)' battery, if any, at any time the existing battery becomes unserviceable. Tenant shall notify BWCHA immediately, in writing, of any problem, defect, malfunction, or failure of the smoke detector(s) and/or CO detector(s). If after replacing the battery, the smoke detector(s) and/or CO detector will not operate, Tenant shall immediately inform BWCHA of this fact both in writing and via telephone. Upon notice from Tenant, BWCHA shall replace smoke detector(s) and/or CO detector(s) that will not operate or malfunction. Tenant shall reimburse BWCHA for the cost of Smoke detector(s) and/or CO detector(s) and the costs associated with replacement and/or installation thereof in the event the existing smoke detector(s) and/or CO detector(s) become damaged or removed by Tenant or Tenant's guests or invitees.
- e. **TENANT ACKNOWLEDGES AND AGREES THAT BWCHA IS NOT THE OPERATOR, MANUFACTURER, DISTRIBUTOR, RETAILER, OR SUPPLIER OF THE SMOKE AND CARBON MONOXIDE DETECTOR(S). TENANT SHALL BE RESPONSIBLE FOR LOSS, COSTS, DAMAGES, OR INJURIES TO PERSONS OR PROPERTY RESULTING FROM (1) TENANT'S FAILURE TO REGULARLY TEST THE SMOKE AND CO DETECTOR(S); (2) TENANT'S FAILURE TO NOTIFY BWCHA OF ANY PROBLEM, DEFECT, MALFUNCTION, OR FAILURE OF THE SMOKE AND CO DETECTOR(S); (3) THEFT OF THE SMOKE AND CO DETECTOR(S) OR REMOVAL OF ITS/THEIR BATTERY/BATTERIES; AND (4) TENANT'S FAILURE TO COMPLY WITH THE TERMS OF THIS SECTION OF THE LEASE.**
- f. Tenant has personally inspected the water heater in the Unit (if applicable) and affirms that the water heater is set at 120 degrees Fahrenheit according to Washington State Law. If at any time Tenant changes the setting to a different temperature, Tenant is responsible and agrees to indemnify, defend, and hold BWCHA harmless from any and all injuries, damages, or loss arising therefrom, including, but not limited to, attorneys' fees and costs.

## 11. HAZARDOUS DEFECTS

Tenant agrees to take every precaution to refrain from Meth activity, prevent pest infestations, prevent fires, storing gasoline, solvent, paper, cardboard or other flammable or combustible materials or substances in the Unit, and to supervise Tenant's children to ensure they do not play with matches or lighters, and agrees to promptly notify BWCHA of the existence of any of the foregoing conditions in the Unit and, upon Tenant's knowledge thereof, elsewhere on BWCHA property. In the event the Unit is damaged such that the conditions created are hazardous to the life, health, or safety of the occupants:

- a. Tenant shall immediately notify BWCHA of damage.
- b. BWCHA shall be responsible for repair of the Unit within a reasonable period of time after receiving notice from Tenant, provided, if the damage was caused by Tenant, Household Members, guests, or anyone else under Tenant's control, the reasonable cost of the repairs shall be charged to Tenant and BWCHA may terminate the tenancy and/or the Lease.
- c. BWCHA may offer Tenant a replacement dwelling unit, if available, if necessary, repairs to the Unit cannot be made within a reasonable time. BWCHA will not offer Tenant a replacement unit by Tenant, Household Members, guests, or anyone else under Tenant's control caused the hazardous condition.
- d. In the event BWCHA, as described above cannot make repairs, and alternative accommodations are unavailable, then BWCHA shall abate Rent in proportion to the seriousness of the damage and loss in value as a dwelling. BWCHA shall not abate Rent if Tenant rejects alternative accommodations offered by BWCHA or if Tenant, Household Members, guests, or anyone else under Tenant's control caused the damage and/or hazardous condition.
- e. If BWCHA determines that the Unit is unfit for occupancy because of imminent danger to the life, health, and safety of Tenant, tenancy and/or the Lease shall be terminated.
- f. If BWCHA determines Tenant's household items to be contaminated, BWCHA may provide Tenant with non-monetary resources and assistance to decontaminate furnishings, clothing, or other personal items.

## 12. PEST CONTROL

- a. Tenant agrees to take necessary precautions to prevent pest infestations in the Unit, the Housing Development and elsewhere on BWCHA property. Such precautions include but are not limited to: Tenant refraining from moving infested furniture, clothing or other items into the Unit, and Tenant maintaining the Unit in a manner that it is free of excessive clutter and furniture.
- b. If an infestation in the Unit occurs, Tenant agrees to notify BWCHA immediately and cooperate fully with and to undertake all efforts and tasks required by BWCHA or BWCHA's pest control company employed to eradicate pests. Tenant's full cooperation includes but is not limited to: making the Unit available for entry to complete pest inspection and eradication treatments, completing all required pre-treatment activities, evacuating the Unit during and after treatment for the required time frame as needed, completing all required post-treatment activities, and immediately reporting ineffective treatment or re-infestations to BWCHA.
- c. BWCHA will provide an individual pest treatment plan and review it with Tenant.
- d. If Tenant fails to cooperate and follow necessary preparation as outlined in the individual pest treatment plan including being fully prepared for treatment, Tenant may be billed the actual cost for services. Failure to fully comply with the individual pest treatment plan constitutes a material breach of this Lease and subjects Tenant to termination of the Lease.
- e. BWCHA or agents participating in treatment activities on behalf of BWCHA are not liable to Tenant for any damages caused by pests, pest control inspections or treatments, including but not limited to: replacement of furniture, clothing, other personal belongings, medication or medical expenses.
- f. BWCHA does not guaranty or warranty a pest free Unit.

### 13. INSPECTIONS

- a. Move-in Inspection: BWCHA and Tenant shall inspect the Unit prior to occupancy by Tenant. BWCHA will give Tenant a written statement of the condition of the Unit ("**Move-in Inspection Report**") and note any equipment provided with the Unit. A copy of the **Move-in Inspection Report** shall be signed by Tenant and BWCHA staff and retained in Tenant's tenancy file. BWCHA will address any deficiencies noted on the **Move-in Inspection Report** at no charge to Tenant.
- b. Move-out Inspection: BWCHA will inspect the Unit at the time Tenant vacates and give Tenant a written statement of the condition of the Unit and any charges for which Tenant is responsible ("**Move-out Inspection Report**"). Tenant may join in such inspection unless Tenant vacates without notice to BWCHA.

### 14. BWCHA ENTRY OF UNIT DURING TENANCY

- a. Tenant Obligations:
  - i. Tenant agrees that the duly authorized agent, employee, or contractor of BWCHA will be permitted to enter the Unit at reasonable hours for the purpose of performing routine maintenance, making improvements or repairs, inspecting the Unit, or showing the Unit for re-leasing. Tenant also agrees that BWCHA or its duly authorized agent, employee, or contractor may take photographs inside the Unit while conducting official BWCHA business.
  - ii. When Tenant calls to request maintenance on the Unit, BWCHA shall attempt to provide such maintenance at a time convenient to Tenant. If Tenant is absent from the Unit at the time of repairs but has given BWCHA express permission to enter, BWCHA will enter and complete the necessary repairs. If express permission to enter has not been provided, BWCHA will arrange an appointment directly with Tenant or provide Tenant forty-eight (48) hour notice to prior to entry.
- b. BWCHA's Obligations:
  - i. Except as otherwise provided by this Lease and the law, BWCHA shall give Tenant at least 48 hours written notice that BWCHA intends to enter the Unit. Except in the case of an emergency, BWCHA may enter only at reasonable times.
  - ii. BWCHA may enter the Unit at any time without advance notification when there is reasonable cause to believe that an emergency exists.
  - iii. If Tenant and all adult Household Members are absent from the Unit at the time of entry, BWCHA shall leave in the Unit a written statement specifying the date, time, and purpose of entry prior to leaving the Unit.

### 15. NOTICES

- a. Tenant Responsibility: Any notice to BWCHA must be in writing, delivered to BWCHA's administrative office, or sent by prepaid first-class mail, properly addressed.
- b. Tenant Responsibility: BWCHA may assess a \$25.00 lease violation against a Tenant for Repeated Lease Violations, if Repeated Lease Violation continues after Tenant receives a written notice of the violation and an opportunity to correct the violation. For the purposes of this Lease, "Repeated Lease Violation" shall mean any violation of the lease by the Tenant, including without limitation, failing to pay rent, failing to comply with pet/animal requirements, or refusal to permit inspections, that occurs more than once. If BWCHA must issue a second pay or vacate or a second comply or vacate notice to Tenant, and such notice is not complied with, then Landlord may impose a \$25 fee per violation, not to exceed \$75 in any given month. The imposition of the Repeated Lease Violation fee as provided for in this paragraph is subject to the Grievance Procedures provided in Section 17 of this Lease.

- c. BWCHA Responsibility: Any notice required by Chapter 59.18 RCW or Chapter 59.12 RCW shall be given according to the notice provisions in those statutes. Any other communications provided from BWCHA to Tenant shall be given in the manner provided for in the ***BWCHA Admissions and Continued Occupancy Policy***. Where a method of communication is not provided by law or in the ***BWCHA Admissions and Continued Occupancy Policy*** such notice may be giving in person to Tenant or an adult Household Member or sent to Tenant via first-class U.S. mail. Unopened, canceled, first class mail returned by the Post Office shall be sufficient evidence that notice was given.
- d. BWCHA Responsibility: In the case of any proposed changes in rules, regulation, procedures, or schedules that apply to all tenants in a Housing Development, BWCHA may, as an alternative to processes outlined in subsection (c) above, may post such notice in three (3) conspicuous places, including without limitation: bulletin boards, common area laundry rooms, BWCHA Administrative Offices, or BWCHA's website.

## 16. TERMINATION OF LEASE

- a. This Lease may be terminated by Tenant at any time following the expiration of the initial twelve (12) month lease term by giving thirty (30) calendar days written notice to BWCHA in the manner specified in Section 15 of this Lease - Notices. Any provisions of this Lease that impose obligations on Tenant following the termination of the Lease specifically survive termination. Tenant agrees to leave the Unit in clean and good condition, reasonable wear and tear expected, and to return the keys to BWCHA when Tenant vacates the Unit. If Tenant fails to give notice, Tenant will be responsible for payment of unmitigated rent for one month following abandonment or surrender of the Unit. If Tenant transfers to another BWCHA operated dwelling unit or program, unpaid rent balance and/or other charges under this Lease must be paid within thirty (30) calendar days of receipt of charges. Exceptions may be made at the sole discretion of BWCHA.
- b. Upon the death of a sole occupant of the Unit, BWCHA will terminate the tenancy as provided in the Washington Landlord Tenant Act and/or applicable HUD rules.
- c. Tenancy shall terminate upon the abandonment of the Unit by Tenant.
- d. If BWCHA terminates this Lease because of Tenant's material breach of this Lease, BWCHA shall give Tenant written notice of termination, and require Tenant to comply with the notice and/or vacate the Unit within:
  - i. Thirty (30) calendar days of a Notice to Pay Rent or Vacate.
  - ii. Thirty (30) calendar days of a Notice to Comply or Vacate.
  - iii. Three (3) calendar days of a Notice of Termination if Tenant, a Household Member, a guest, or anyone else under Tenant's control engaged in any drug-related criminal activity or violent criminal activity, commits or permits waste, creates a nuisance, or engages in activity which creates or maintains a threat to the health or safety of other tenants, BWCHA's employees, or the public, in the Unit, in the Housing Development or elsewhere on BWCHA property.
  - iv. Thirty (30) calendar days of notice in all other cases.
- e. Any notice of termination given to Tenant shall state the reasons for the termination and inform Tenant of Tenant's right to a hearing in accordance with the Grievance Procedure referenced in Section 17 of the Lease – Grievance Procedure. The Notice shall also inform Tenant of Tenant's right to examine BWCHA documents directly relevant to the termination or eviction. Any Notice to Vacate given to Tenant under Washington State law will be combined with a notice of termination and the time periods of such notices will run concurrently (at the same time).
- f. BWCHA may terminate this Lease prior to its expiration or refuse to renew this Lease for serious or repeated violations of material terms of the Lease by Tenant, such as failure to pay Rent, if Tenant or family is over the income limit, or for other good cause, which includes, but is not limited to:

- i. Tenant's failure to comply with the **Community Service Agreement**;
  - ii. Tenant's income exceeds HUD Over-Income limits for 24 consecutive months;
  - iii. Tenant, Household Members, guests, or anyone else under Tenant's control engaging in criminal activity;
  - iv. Tenant admission of facts that made Tenant ineligible for public housing assistance;
  - v. Tenant making a materially false statement or committing fraud in connection with an application for assistance or with reexamination of income; or
  - vi. Tenant's failure to accept BWCHA's offer of a lease revision to the existing Lease that is on a form adopted by BWCHA in accordance with HUD regulations, and after Tenant received at least sixty (60) calendar days' notice before the revision is schedule to take effect.
- g. BWCHA may terminate this Lease prior to its expiration or refuse to renew this Lease, absent serious or repeated violations of material terms of the Lease by Tenant, and require Tenant comply with a Notice to Vacate if:
- i. BWCHA determines that the Unit is unfit for occupancy because of imminent danger to the life, health, and safety of Tenant or Household Members, and Tenant refuses alternative accommodations.
  - ii. A governmental agency, other than BWCHA, charged with the authority to issue notices to vacate (for example, the Health Department or local building official) condemns the Unit or otherwise determines the Unit is uninhabitable, upon thirty (30) calendar days' notice to Tenant, or such shorter notice required by the governmental agency charged with the authority to issue such an order.
  - iii. Tenant refuses to transfer to an alternative dwelling unit if the Unit is equipped with special features designed to accommodate a person with disabilities and Tenant or Household Members do not have a need for such special features, upon thirty (30) calendar days' notice to Tenant.
- h. Tenant shall not be entitled to use the Grievance Procedure in the case of termination of tenancy, this Lease, or eviction of Tenant under the unlawful detainer laws of the State of Washington, due to Tenant, Household Members, guests or anyone else under Tenant's control engaging in any criminal activity that threatens the health, safety or right to peaceful enjoyment of other tenants, their guests or BWCHA's employees, or due to Tenant, Household Members, guests or anyone else under Tenant's control engaging in any drug-related criminal activity as defined in and set forth in Section 7 of this Lease - Tenant Obligations.

## 17. GRIEVANCE PROCEDURE

- a. Except as provided in Section 16(h) of this Lease, all grievances arising under this Lease shall be processed and attempted to be resolved pursuant to the Grievance Procedure which is in effect at the time of such grievance or appeal (the "Grievance Procedure"). This Grievance Procedure is contained in the **BWCHA Admissions and Continued Occupancy Policy** and shall be posted in BWCHA office and is incorporated in this Lease by reference.
- b. Tenant shall be provided reasonable opportunity, prior to the hearing or trial, to examine any relevant documents, records or regulations directly related to the adverse action.
- c. BWCHA shall be provided reasonable opportunity, prior to the hearing or trial, to examine any relevant documents, records or regulations directly related to the adverse action.
- d. BWCHA grievance hearings shall be conducted by a single hearing officer; this is an impartial employee of BWCHA who was not involved in the original decision or action. BWCHA reserves the right to select an impartial person who is not an officer, employee, agent, or tenant of BWCHA when it deems appropriate.

## 18. MODIFICATIONS OR CHANGES

Modification of this Lease shall be by written amendment executed by Tenant and BWCHA, except for changes in Rent made pursuant to Section 6 of this Lease – Redetermination of Rent and Occupancy - or changes or amendments set forth in this paragraph.

BWCHA may, from time to time, make changes or amendments in the Utility Allowance, Schedule of Other Charges, the ***BWCHA Administrative and Continued Occupancy Policy*** and any and all other rules, regulations, schedules, or procedures (including Grievance Procedures) in this Lease or affecting the Lease and any and all such changes and amendments (subject to compliance with the notice procedure specified in this paragraph) shall become part of this Lease. BWCHA shall provide at least thirty (30) days written notice to Tenant setting forth the proposed change in policy or amendment, the reasons therefore, and provide Tenant an opportunity to make written comment. Prior to any change in policy or amendment becoming effective, BWCHA shall provide Tenant with at least sixty (60) calendar day notice of the revision. Any notice required by this Section shall be served on Tenant as set forth in Section 15 of this Lease - Notices.

## 19. NO WAIVER

Notwithstanding any conduct or custom on the part of BWCHA, the failure of BWCHA to enforce any of BWCHA's rights under this Lease Agreement shall not be construed as having created a custom in any way contrary to the specific terms of this Lease or as having in any way modified the Lease or as having constituted a waiver of any of BWCHA's rights or obligations under this Lease. Acceptance of payment of rent does not constitute waiver of any non-complying condition, including but not limited to: late payment, partial payment, breach of agreement or any condition for which a notice to comply has been given. BWCHA does not waive any rights or remedies to the eviction or other action by acceptance of rent, partial payment or by action or failure to act.

## 20. SEVERABILITY

In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Lease shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

## 21. GOVERNING LAW AND ATTORNEYS' FEES AND COSTS

This Lease is governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action, venue shall lie exclusively in Whatcom County, Washington, provided however, Tenant shall first file a timely grievance as provided in the ***BWCHA Admission and Continued Occupancy Policy*** and exhaust all administrative remedies provided for in the Grievance Procedure, if afforded this right in the Lease, prior to commencing an action in court. To the full extent allowed by law, if by reason of any default or breach on the part of either party in the performance of any of the provisions of this Lease, the substantially prevailing party shall be entitled to an award of all of its reasonable costs and attorneys' fees.

## 22. RESOLUTION OF CONFLICTING PROVISION; INTERPRETATION-NEUTRAL CONSTRUCTION

In the event of any conflict between this Lease and any policy of BWCHA, the most recent document (Lease agreement or policy) shall control. This Lease, and all policies referenced and incorporated have been reviewed and approved by all parties. No presumption or other rules of construction which would interpret the provisions of this Lease in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Lease. Unless otherwise noted in this Lease, defined terms in BWCHA

policies or HUD regulations are applied to the terms used in this Lease.

### 23. HEADINGS AND CAPTIONS

The headings and captions provided for in this Lease are for reference purposes only and do not have any effect on the interpretation of the terms of this Lease.

### 24. COUNTERPARTS

This Lease may be executed in any number of counterparts with the same effect as if the parties had signed the same Lease. All counterparts will be construed together and evidence only one Lease. Signatures on the Lease, or any other documents delivered in connection to the Lease or tenancy, may be by facsimile or e-mail transmission, and signature on facsimile or e-mail copies have the same force and effect as original signatures. This Lease, and any other documents delivered in connection to the Lease or tenancy may be electronically signed, and any electronic signature appearing on the Lease or such other document have the same force and effect as handwritten original signatures.

### 25. SURVIVAL

All obligations of the parties, as provided for in this Lease, which require performance beyond the termination of tenancy or this Lease, shall survive the termination of this Lease.

### 26. LEASE ATTACHMENTS AND CERTIFICATION

Tenant certifies that all information and documentation submitted by the Household in connection with any federal housing assistance program (before and during the Lease term) are true and complete. Tenant also certifies that Tenant has received a copy of this Lease Agreement, together with those policies referenced therein and incorporated by reference, and the attachments listed below:

- Attachment No. 1 ***Certification and Recertification of Tenant Eligibility (50058)***
- Attachment No. 2 ***Move-in Inspection Report***
- Attachment No. 3 ***Methamphetamine Monitoring and Remediation Policy & Procedures and Drug Free-Housing Policy***
- Attachment No. 4 ***Bed Bug Notice***
- Attachment No. 5 ***BWCHA House Rules***
- Attachment No. 6 ***Mold & Mildew Attachment***
- Attachment No. 7 ***Pet or Service Animal Agreement (check if applicable)***
- Attachment No. 8 ***Addendum for ACOP Inclusion***
- Attachment No. 9 ***Lead Hazard Information Packet & Disclosure***
- Attachment No. 10 ***BWCHA Grievance Policy***
- Attachment No. 11 ***Violence Against Women Act Disclosure***
- Attachment No. 12 ***Security Deposit Installment Agreement (check if applicable)***
- Attachment No. 13 ***Community Service Agreement (check if applicable)***

**27. ENTIRE AGREEMENT**

This Lease contains the entire agreement between the parties and incorporates and supersedes all prior agreements and negotiations. It may not be modified or supplemented in any manner or form whatsoever, either by course of dealings or parol or written evidence of prior agreements and negotiations, except upon the written agreement of both parties. There are no other oral or written understandings beyond those identified or incorporated by reference in this Lease.

**IN WITNESS, WHEREOF**, the parties have executed this Lease:

Tenant: \_\_\_\_\_ Date: \_\_\_\_\_

Tenant: \_\_\_\_\_ Date: \_\_\_\_\_

Tenant: \_\_\_\_\_ Date: \_\_\_\_\_

Tenant: \_\_\_\_\_ Date: \_\_\_\_\_

BWCHA Representative: \_\_\_\_\_ Date: \_\_\_\_\_



**Bellingham &  
Whatcom County  
Housing Authorities**

333 N Samish Way  
Bellingham, WA 98225

P.O. Box 9701  
Bellingham, WA 98227

Phone: (360) 676-6887

Toll Free: (888) 585-3808

Fax: (360) 527-4630

TTY: (800) 833-6384

[www.bellinghamhousing.org](http://www.bellinghamhousing.org)

Resident Advisory Board Meeting  
FY 2026 PHA Plan  
Whatcom County Housing Authority

Date: 8/4/2025

Residents: refer to attached list

Staff: Irma Kohlman, Robyn Weber, and Lance Simons

No attendees.