

City of Niagara Falls (NY404) Leased Housing Program-Administrative Plan Changes

Asset Limitation for New Admissions (24 CFR § 5.618)

- PHAs must deny admission of an applicant family for the following:
 1. Net family assets that exceed \$100,000 (adjusted annually for inflation); and/or
 2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

- PHAs must include this admission and termination/eviction policy in their ACOPs or Admin Plans.

Asset Limitation for Interim and Annual Reexaminations (24 CFR § 5.618)

- PHAs must initiate eviction (Public Housing) or termination (Section 8 HCV) of a family's assistance no later than six months after the effective date of an annual or interim reexamination for the following:
 1. Net family assets that exceed \$100,000 (adjusted annually for inflation); and/or
 2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

Self-Certification – Real Property Ownership (24 CFR § 5.618(b)(2))

- PHAs must determine whether a family has present ownership in real property for the purposes of determining whether the family is compliant with the asset limitation provision.
- If a family declares present ownership in real property, PHAs must seek third-party verification of the following, as applicable:
 - Whether or not the family has the legal right to reside in the property; and
 - Whether or not the family has the effective legal authority to sell the property; and
 - Whether or not the property is suitable for occupancy by the family as a residence.

Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (adjusted annually for inflation) (24 CFR §§ 5.603; 5.609; 5.618; 882.515(a); 882.808(i)(1);960.259(c)(2); 982.516(a)(3))

- PHAs must determine if the family's total net family assets are equal to or less than \$50,000, and they must determine the actual income earned from the asset(s).

Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care & Auxiliary Apparatus Expenses – Phased-In Relief (24 CFR § 5.611(c)(1))

- Families who receive phased-in relief will have eligible expenses deducted as follows:
 - 1st twelve months – in excess of 5% of annual income.
 - 2nd twelve months – in excess of 7.5% of annual income.
 - After 24 months – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for General Hardship relief.
- Once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.

Hardship Exemption to Continue Child Care Expense Deduction (24 CFR § 5.611(d))

- PHAs must develop written policies to define what constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the childcare expense hardship exemption.
- PHAs must include this policy in their ACOPs or Admin Plans.
- PHAs must obtain third-party verification of the family's inability to pay rent or must document in the file with the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day period.

De Minimis Errors in Income Determinations (24 CFR §§ 5.609(c)(4); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5))

- PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent because of de minimis errors in calculating family income.
- PHAs may not implement local policies to require families to repay in instances resulting in a family being undercharged for rent where the PHA miscalculated the family's income.

Interim Reexaminations - Decreases in Adjusted Income (24 CFR §§ 960.257(b)(2); 982.516(c)(2); 882.515(b)(2); 891.410)

- PHAs are required by HUD to process interim reexaminations for all decreases in adjusted income when a family member permanently moves out of the unit.
- PHAs are not permitted to establish a dollar figure threshold amount instead of a percentage threshold less than ten percent.

Interim Reexaminations - Increases in Adjusted Income (24 CFR §§ 960.257(b)(3); 982.516(c)(3); 882.515(b)(3))

- PHAs must conduct an interim reexamination of family income when they become aware that the family's annual adjusted income has changed by an amount that would result in an estimated increase of ten percent or more in annual adjusted income or another amount established through a HUD notice, except PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle.
- PHAs **may not** establish a different threshold to conduct interim reexaminations for increases in adjusted income.

Interim Reexaminations - Reporting Changes & Effective Date (24 CFR §§ 960.257(b)(4); 982.516(d); 882.515(b)(1) - (4); 882.808(i)(4); 891.410)

- If the PHA has adopted a retroactive rent decrease policy, it may not be applied prior to the later of:
 - The 1st of the month following the date of the actual decrease in income; or
 - The 1st of the month following the most recent previous income examination.

Note: The PHA must clearly communicate to the family and owner, if applicable, how a retroactive adjustment will affect the family's responsibility for rent.

Revocation of Consent Form (Form HUD9886) 1 (24 CFR §§ 5.230(c)(5)(iii) and 24 CFR

5.232(c) 1 Revocation of consent or refusal to sign the consent form prohibits the PHA from requesting and accessing income information and financial records, including pulling any EIV reports and using EIV data to verify income.

- The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family provides written notification to the PHA to revoke consent.
- Families have the right to revoke consent by notice to the PHA; however, revoking consent can result in termination or denial of assistance if the PHA has established an admission and occupancy policy that the revocation of consent will result in termination of assistance or denial of admission.
- PHAs may not process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).
- PHAs must explain to families the consequences, if any, of revoking their consent.
- PHAs must notify their local HUD office when an applicant or participant family member revokes their consent.

Note: Data matches between HUD and other agencies will continue to automatically occur, when consent is revoked, if the family is not terminated from the program.

Determination of Family Income Using Other Means Tested Public Assistance, i.e., “Safe Harbor” (24 CFR §§ 5.609(c)(3) and 891.105)

- PHAs may determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance:
 - The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
 - Medicaid (42 U.S.C. 1396 et seq.).
 - The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
 - The Earned Income Tax Credit (26 U.S.C. 32).
 - The Low-Income Housing Tax Credit (26 U.S.C. 42).
 - The Special Supplemental Nutrition for Woman, Infants, and Children (42 U.S.C. 1786).
 - Other programs administered by the Secretary.
 - Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.
 - Other Federal benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice.
- PHAs are not required to accept or use determinations of income from other Federal means-tested forms of assistance.
- Safe Harbor verification must be obtained by means of third-party verification and must state the family size, must be for the entire family (i.e., the family members listed in the documenting 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.

Enterprise Income Verification (EIV) Usage (24 CFR § 5.233)

- PHAs must use HUD's EIV system in its entirety, in accordance with 24 CFR 5.233.
- PHAs must update their EIV policies and procedures to reflect their discretionary use of EIV reports (e.g., Income Report, zero income reports, New Hires Report, IVT) under HOTMA.