2024

RBD HOTMA Today 2024
Class Questions & Answers

FOR HUD'S MULTIFAMILY HOUSING PROGRAMS

ONLINETRAINING@RBDNOW.COM

RBD HOTMA Today 2024
Class Questions & Answers

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"The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in HUD's Multifamily Housing industry.

The majority of the instruction provided in this workbook is based on interpretation of HSG Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) revised 02/05/2024. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and various notices and documents provided by the Department of Housing & Urban Development and the Department of Justice.

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These materials were updated 4/2024
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INTRODUCTION

The following questions were asked, via chat, during the RBD HOTMA Today 2024 trainings.

Responses provided by RBD are based on our interpretation of the Regulations, the HOTMA Final Rule, HH 4350.3 Change 4, Revised HSG Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) released on 2/5/2024, and HSG Notice 2024-04 Revised Compliance Date: Updates to Tenant Selection (TSP) and Enterprise Income Verification (EIV) Policies and Procedures.

FASTFORMS

RBD offers policies, checklists and forms designed to assist in daily operations for HUD's Multifamily Housing programs.

FASTForms can be purchased individually, in Bundles or in Packages.

As of 3/7/2024, the HOTMA FASTForms Package, the TSP FASTForms Packages and the EIV FASTForms Package have been updated for HOTMA. Since both the TSP and the EIV Policies must be updated no later 5/31/2024, we updated those forms first.

If you want information about the forms included in each package, go to the FASTForms Package page and click on the package name. A list of forms included in each package should display. Forms descriptions are also provided.

We are currently working to update the remaining forms packages.

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9887/9887A

QUESTION 1. If the managing agent changes, does the 9887-9887A - have to be signed again?

Answer: HUD does not really provide much guidance related to a change in the owner or agent. While not required, we advise our customers to update all paperwork that references the former agent including the leases, the 9887s, etc. We suggest you consult with legal counsel as appropriate.

QUESTION 2. If a resident's assistance is terminated, and later they request subsidy, do owner/agents need to obtain new signatures for the 9887?

Answer: Yes. At the time the owner/agent is determining whether or not the resident is eligible for reinstatement of assistance, the HOH, co-HOH/spouse (regardless of age) and all adult family members must sign a new 9887/9887A.

QUESTION 3. If an owner/agent opts to terminate if a resident revokes consent for the 9887s, does the owner/agent terminate assistance or does the owner agent terminate tenancy?

Answer: For all programs except PRAC, the owner/agent will terminate assistance. For PRAC, the owner/agent will terminate tenancy.

QUESTION 4. If the applicant is denied, then appeals the denial and is approved, would all adults need to sign a new 9887/9887-A?

Answer: That is an excellent question. I would assume that the 9887 is still in effect until the final decision to deny is sent to the applicant. However, if you wish to err on the side of caution, you could collect a new 9887/9887A.

ANNUAL RECERTIFICATION

QUESTION 5. In regards to Streamlined Certification for Fixed Income Families, can owner/agents choose to recertify annually instead of the 2-3 years?

Answer: Owner/agents of HUD's MFH programs must certify each resident family at least annually. The Annual Recertification 50059 is created, signed and submitted to HUD each year. Even when implementing Streamlined Certification for Fixed Income Families, a new AR must be submitted every year.

However, since 2018, HUD allows owner/agents to simplify the AR process for families where 90% of Total Income is from a fixed income source. In Year 1, owner/agents will conduct standard verification for income and assets. In Year 2 and Year 3 owner/agents may:

1. Apply Streamlined Determination of Fixed Income (Just apply the COLA to Fixed Income)
2. Apply Streamlined Certification of Assets Equal to or Less Than $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*
3. Use prior year value for income that is not fixed.

Medical Expenses and other deductions must be verified each year.

QUESTION 6. Are owner/agents required to adopt Streamlined Certification for Fixed Income Families?

Answer: No, this is an option.

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QUESTION 7. If an owner/agent adopts Streamlined Certification for Fixed Income families, can the owner/agent accept self-certification of medical expenses in Year 2 and Year 3?

Answer: No. Streamlining refers to income, assets and certification. There are three Streamlining options available today.

1. Streamlined Verification of Assets
2. Streamlined Determination of Fixed Income
3. Streamlined Certification for Fixed Income families.

There have been no regulatory changes that allow for Streamlining (self-certification) of Medical Expenses.

ASSETS

QUESTION 8. How do owner/agents treat an asset (home or land) that is in foreclosure?

Answer: Assets in foreclosure are still included as assets until the foreclosure is finalized. This is not a HOTMA change.

Once the foreclosure is complete, do not treat the asset as an asset disposed of for less than fair market value.

QUESTION 9. Should owner/agents add a question to our interview questionnaires to ask about any federal tax refund or tax credits?

Answer: Owner/agents are required to ask applicants and residents (at AR/IR) if they have received a federal tax refund or a tax credit within the last year.

If the net cash value of the family's Included Assets is $50,000 or less, the owner/agent is not required to verify the federal tax refund or tax credit *(amount subject to annual review and adjustment by HUD if necessary)*.

If the net cash value of the family's Included Assets is more than $50,000, the owner/agent must verify the amount actually received *(amount subject to annual review and adjustment by HUD if necessary)*.

QUESTION 10. Are residents to self-certify their federal tax refund amount or do owner/agents need to start getting the proof of their tax refunds?

Answer: Owner/agents are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the net cash value of Included Assets are equal to or below $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*, even in years when full verification of assets is required or if the owner/agent does not accept self-certification of assets.

Owner/agents must verify the amount of the family's federal tax refund or refundable tax credits if the net cash value of Included assets is greater than $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*.

QUESTION 11. We have tenants who have checking accounts that do not bear any interest. Since we would not have "actual" income in those cases, my assumption is that we impute, correct? But ONLY if the account has more than $50,000.

Answer: In your example, since the interest rate for the checking account is 0%, the resident's income from that asset is known. It is zero. You enter the cash value (current balance) of the checking account and would use Actual Income of $0.

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When the net cash value of Included Assets is greater than $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*, then you would impute income from Included Assets when the income is not known. The only exception would be when an asset is disposed of for less than fair market value. In that case, income is imputed if the net cash value of Included Assets is greater than $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*.

QUESTION 12. **What value are owner/agents using for cars? Because the values have fluctuated.**

Answer: Owner/agents will determine what is reasonable verification for the value of a car. It could be Kelley Blue Book, Edmunds or some other credible resource.

QUESTION 13. **I'm a little confused with the Non-Necessary Personal Property (NNPP) and Necessary Personal Property, other than vehicles, how is NNPP being valued?**

Answer: Necessary Personal Property is excluded, so you don't need to worry about the value of Necessary Personal Property. A personal vehicle is considered Necessary Personal Property.

For Non-Necessary Personal Property (NNPP), the method used to verify the value varies depending on what the asset is. For financial accounts (e.g. checking, CDs, etc.) you would use one current statement showing the cash value and earnings. For a boat, you would determine the most accurate method to use when valuing the boat. It could be Kelly Book Boat Values or a local marine. It just depends.

QUESTION 14. **If a resident has an extensive doll collection, are owner/agents supposed to value the collection and include it as Non-necessary Personal Property when determining the value of assets and income from assets?**

Answer: Yes. However, Non-necessary Personal Property is not part of "Included Assets" unless the net cash value of all Non-necessary Personal Property is greater than $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*.

QUESTION 15. **When someone gifts money to an organization do you count that as an imputed asset?**

Answer: *Please note: With TRACS 2.0.3.A, the choices for Asset Status change from C – Current and I – Imputed to C – Current and D – Divested.*

Charitable donations are considered *Assets Disposed of for Less Than Fair Market Value* for two years from the date of divestiture. When TRACS 2.0.3.A is released, the cash would be entered as a Divested Asset.

Any asset that is disposed of for less than its full value is counted, including cash gifts as well as property. To determine the amount that has been given away, owners must compare the cash value of the asset to any amount received in compensation.

However, the rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than $1,000.

Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorces, or separation, are *not* counted.

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

Description	Asset Type	Cash Value	Income Type	Income
Checking Account	Non-Necessary Personal Property	$2,270	A	57
Savings Account	Non-Necessary Personal Property	$3,596	A	99
Half Interest Duplex	Other Real Property	$150,000	I	600
Total Assets		**$155,866**		
Total Non-Necessary Personal Property	$5,866	Only include NNPP if the net cash value of all NNPP exceeds $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*		
Total Included Assets	**$150,000**			
Total Actual Income	($57 + $99) $156	Use actual income from NNPP even if the cash value is not included.		
Total Imputed Income	(150,000 * .40%) $600	Only impute income from assets when the asset is included and the income is not known.		
Total Income	($156 + 600) $756			

Be careful that you only count imputed income from Included Assets

Description	Asset Type	Cash Value	Income Type	Income
Checking Account	Non-Necessary Personal Property	$2,270	A	57
Savings Account	Non-Necessary Personal Property	$3,596	A	99
Beanie Baby Collection	Non-Necessary Personal Property	$15,000	I	60
Half Interest Duplex	Other Real Property	$150,000	I	600
Total Assets		$170,866		
Total Non-Necessary Personal Property	($2270 + $3596 + $15000) $20,866			
Total Included Assets	$150,000	Do not include ANY NNPP unless the net cash value of all NNPP is more than $50,000. *(amount subject to annual review and adjustment by HUD if necessary)*		
Total Actual Income	($57 + 99) $156	Include Actual Income even if the NNPP is not included.		
Total Imputed Income	Do not include imputed income for the Beanie Baby Collection because that asset is not included. (150,000 * .40%) $600	Only impute income from assets when the asset is included and the income is not known.		
Total Income	($156 + 600) $756	Add actual income and imputed income.		

QUESTION 16. What steps do owner/agents take if the value of an asset is unknown, like a travel trailer?

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Answer: I would suggest you use an internet search engine (e.g. Google, Bing) to determine the best way to determine a reasonable cash value of Non-necessary Personal Property (NNPP). Once you feel you have a credible source, you should use it consistently for “like” assets.

QUESTION 17. How does an owner/agent treat a second car that is valued under $50,000.00?

Answer: I am assuming you are saying that a single driver (resident) owns a second car that would not be considered Necessary Personal Property for a resident in the unit. If that is the case, unless the second car is used for business, it would appear that the second car could be considered Non-necessary Personal Property (NNPP).

Owner/agents must total the value of all Non-necessary Personal Property owned by a resident family. If the total of all Non-necessary Personal Property is more than $50,000, then Non-necessary Personal Property is included when determining the cash value of all Included Assets *(amount subject to annual review and adjustment by HUD if necessary).*

Generally, income from an asset like a car is unknown, so the income would be imputed.

QUESTION 18. Do owner/agents need to count actual income AND imputed income on an asset? Can you go over that again?

Answer: Under HOTMA, owner/agents must use actual income from an asset when the income is known. Once HOTMA is implemented, when site software is updated, for an asset where income is known, the owner/agent will never impute income from that asset.

When income is not known, and when the total of Included Assets exceeds $50,000, the owner/agent will impute income for any Included Asset when the income is not known. *(amount subject to annual review and adjustment by HUD if necessary)*

QUESTION 19. If an owner/agent decides to adopt Streamlined Verification of Assets (verify once every three years) do you know if most software companies will have a way to track the years?

Answer: As far as I know, TRACS will track the three year requirement.

It would be ideal if the software vendors incorporate such a tracking method. Many software vendors plan to incorporate tracking for Streamlining, but I cannot speak for all of them.

QUESTION 20. If an owner/agent chooses not to implement Streamlined Verification of Assets at move-in at this time, can the owner/agent’s policy change if the owner/agent later decides to implement the Self-certification of Assets as MI?

Answer: Historically, OAs have been able to modify policies whenever necessary to incorporate a change. If later, an owner/agent decides to implement a policy to accept Streamlined Verification of Assets at move-in, the TSP will need to be updated to include this information when the owner/agent implements the new policy.

QUESTION 21. During the first year after 203A implementation, should owner/agents verify assets and then Streamline in Year 2 and Year 3, or, because assets were verified in 2023, may owner/agents begin using Self-certification of Assets in 2024?

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Answer: It is totally up to you. Since Streamlined Verification of Assets has been an option since 2018, many owner/agents have already implemented this process.

There is no requirement to make 2024 "Year 1". If assets were verified in 2023, 2024 can be "Year 2".

QUESTION 22. If an owner/agent wishes to implement Streamlined Verification of Assets, can this start in 2024 – using 2024 as Year 1?

Answer: It's certainly an option if you wish to do so.

QUESTION 23. When an owner/agent uses Streamlined Verification of Assets, in Year 2 and Year 3, once the resident provides Self-certification of Assets & Income From Assets, do owner/agents still need to ask the resident to provide six months' worth of checking account statements?

Answer: If an owner/agent has adopted Streamlined Verification of Assets, when the resident self-certifies the total cash value of assets and income from assets in Year 2 and Year 3, and as long as the total cash value of assets is still $50,000 or less, no additional verification (other than the self-certification) is required in Year 2 and Year 3 *(amount subject to annual review and adjustment by HUD if necessary)*. So, no, you do not have to collect any bank statements for checking accounts in Year 2 or Year 3.

Starting 1/1/2024, with the implementation of HOTMA, owner/agents may use a minimum of one statement to verify the cash value (balance) of a checking account any time third-party verification is required. Obtaining six statements and determining the average balance is no longer required under HOTMA.

QUESTION 24. Current resident receives Social Security and net cash value of Included Assets is less than $50,000.00. The owner conducts an "old-school" verification of income and assets in 2024. In year 2, resident receives an inheritance, hits the lottery, or for whatever reason assets exceed $50,000.00.

The owner/agent Streamlines Determination of Fixed Income by applying the COLA to SS income, but is required to verify the assets. Does this break the assets into a different streamline schedule than the income? Are Streamlined Verification of Assets now in Year 1 and the Streamlined Determination of Fixed Income in Year 2?

Answer: There are three separate aspects of Streamlining.

1. Streamlined Verification of Assets;
2. Streamlined Determination of Fixed Income;
3. Streamlined Certification for Fixed Income Families.

They are all tracked separately. In your example, the resident would be in Year 2 of Streamlined Determination of Fixed Income and in Year 1 for Streamlined Verification of Assets.

QUESTION 25. Current resident net cash value of Included Assets is less than $50,000.00. The owner conducts traditional verification of income and assets in 2024. In year 2, resident receives an inheritance, hits the lottery, or for whatever reason assets exceed $50,000.00. Can the owner/agent accept self-certification of assets owned in 2024 and just verify the cash value and income for the new assets?

Answer: No. This is not the way Streamlining works. Under HOTMA, Streamlining only applies if the net cash value of ALL INCLUDED Assets is $50,000 or less *(amount subject to annual review and adjustment by HUD if necessary)*.

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If, as in your example, the net cash value of assets exceeds $50,000 in Year 2, the resident is no longer a candidate for Streamlining and all assets/income from assets must be verified. *(amount subject to annual review and adjustment by HUD if necessary)*

QUESTION 26. I have seen an "Under 50,000" asset self-certification form on the LIHTC side. Do you think HUD will create one as well to use in lieu of a self cert?

Answer: HUD provided a sample in the revised HSG Notice 2023-10. Owner/agents may use HUD's sample or may create their own sample.

QUESTION 27. In the class exercise, why did you include amounts tithed to the church as an Asset Disposed for Less Than Fair Market Value?

Answer: Applicants and tenants must declare whether an asset has been disposed of for less than fair market value at application and at each Annual Recertification. (This provision does not apply to families receiving only BMIR assistance.) Owners must count assets disposed of for less than fair market value during the two years preceding certification or recertification.

The amount counted as an asset is the difference between the cash value and the amount actually received. Any asset that is disposed of for less than its full value is counted, **including cash gifts** as well as property. Remember, the rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than $1,000.

QUESTION 28. If a resident has two mobility scooters, would you consider the second mobility scooter Non-necessary Personal Property?

Answer: No. Items used to alleviate the symptoms or side effects of a disability are considered Necessary Personal Property.

QUESTION 29. I understand that owner/agents exclude the amount of any federal tax return for 1 year, but then what do owner/agents do after that 1st year?

Answer: Each year, owner/agents are required to ask if the resident (or applicant) has received a federal tax refund or a federal tax credit in the last 12 months. If the answer is yes, the owner/agent will reduce the cash value of all assets by the amount of the federal tax refund or federal tax credit.

Owner/agents are not required to verify the amount of the federal tax refund or the federal tax credit if the Cash Value of Included Assets is $50,000 or less *(amount subject to annual review and adjustment by HUD if necessary)*.

QUESTION 30. Are owner/agents required to ask about federal tax refunds or tax credits at Move-in as well?

Answer: Yes. Owner/agents should ask about federal tax refunds and federal tax credits during the eligibility interview. The question could be added to the application.

When creating the 50059 and determining the assistance payment, any tax refund received in the previous 12 months will be used to reduce the cash value of assets.

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QUESTION 31. I have some tenants that have no asset but have received a large tax refund. How will that adjust on the cert?

Answer: I would be suspicious of a tenant that earned enough to receive a large tax refund, but who claims to have no assets.

If there truly are no assets assigned to the resident, then the tax refund would have no effect on the Assistance Payment calculation because the net cash value of assets cannot be less than zero.

QUESTION 32. Can you define what is considered a retirement account?

Answer: To determine whether an account would be classified as a retirement account, owner/agents must use the IRS definition of a retirement account. See the IRS web site for additional information https://www.irs.gov/retirement-plans/plan-sponsor/types-of-retirement-plans.

QUESTION 33. Currently, owner/agents count earnings for a retirement account when determining income from assets. Will owner/agents continue to do that once HOTMA is implemented?

Answer: Retirement accounts and earnings for retirement accounts are excluded under HOTMA.

When the retirement account starts making a regular periodic payment, including the Required Minimum Distribution, that regular periodic payment is included as income and will be entered using income code RT (Retirement Account). This is true even if the RMD is distributed annually.

Until site software is updated to comply with HOTMA, owner/agents will code this income to Other Non-wage income.

QUESTION 34. In the class exercise, why is Total Asset listed but the Cash Value of Included Assets is $0?
Answer: There are a few things to consider.

First of all, when an asset **AND** the earnings from an asset are excluded, owner/agents can pretty much ignore the asset (e.g. retirement account, irrevocable trust)

Second, sometimes owner/agents have to gather all of the information about the remaining assets to determine what is included. For example, a resident's Non-necessary Personal Property includes:

- A checking account with a $2,800 balance earning $140;
- A money market account with a $10,000 balance earning $500; and
- A jet ski worth $4,650.

The Total Assets is $17,450 and when this is verified in Year 1, the owner/agent may accept self-certification for the next two years (Streamlined Verification of Assets).

Because the net cash value of all Non-necessary Personal Property is not greater than $50,000 *(amount subject to annual review and adjustment by HUD if necessary).* Total **INCLUDED** Assets is $0.

However, HUD requires us to always use Actual Income from Assets when income from an asset is known. So, the Cash Value of Assets where Actual Income is used is $2,800 (checking account-NNPI) plus $10,000 (money market) $12,800 and the actual income would be $640 ($140 plus $500).

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The cash value of those assets is not included (because the net cash value of all NNPP is not greater than $50,000) but the income is included. *(amount subject to annual review and adjustment by HUD if necessary)*

QUESTION 35. I'm a little confused, I thought the tax refund wasn't included unless the assets were more than $50,000?

Answer: The amount of the federal tax refund does not have to be verified unless the cash value of Included Assets is greater than $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*. This is true even in years when full verification of assets is required or if the owner/agent does not accept self-certification of assets (Streamlined Verification of Assets).

QUESTION 36. I thought owner/agents had to impute income for EVERY asset when the income is unknown.

Answer: Think of it this way. Currently, under 202D, owner/agents don't impute income unless the cash value of assets exceeds $5,000. With HOTMA, owner/agents always use Actual (known) Income. Owner/agents impute income, only for assets where income is not known, only if the cash value of Included Assets exceeds $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*.

If the cash value of Included Assets exceeds $50,000 *(amount subject to annual review and adjustment by HUD if necessary)*, the owner/agent will add all known income and will add imputed income from Included Assets when income is not known, and the sum will be Total Income from Assets.

SECTION 8 ASSET RESTRICTIONS

QUESTION 37. Do Section 8 Asset Restrictions apply to the 236 program?

Answer: The Section 8 Asset Restrictions apply only to the Section 8 programs including 202/8 and PBRA RAD. They do not apply to the 236 program unless there is also Section 8 layering. These Asset Restrictions also do not apply to 202 PRAC, 202 PAC, 202 without Section 8, 202 SPRAC, 811 PRAC or 811 PRA.

QUESTION 38. Do the 515 properties follow the Section 8 Asset Restriction rules in regard to assets and home ownership?

Answer: If a Section 8 property also has a 515 contract, then yes, the Section 8 Asset Restrictions apply. If there is no Section 8 contract, then the Section 8 Asset Restrictions do not apply.

QUESTION 39. Can a resident own a home under their name and still be qualified for HUD Section 8 housing assistance?

Answer: The Section 8 Asset Restriction related to Real Property excludes applicants from receiving assistance if a family member owns Real Property Suitable for Occupancy (Real Property Rule). Real Property Suitable for Occupancy is defined as a dwelling that:

1. The family has a legal right to reside in the property
2. Is located in the same jurisdiction as the assisted property;
3. Is not geographically located so as to be a hardship for the family;
4. The resident has the right to sell;
5. Is the appropriate size for the family;
6. Meets the disability-related needs for all members of the family;
7. Is safe to reside in based on the physical condition of the property.

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If all of the above criteria are met, then the home/residence is considered Real Property Suitable for Occupancy. If all of the criteria above are not met, then the home would be classified as Other Real Property.

The owner/agent must ask and the applicant must self-certify whether or not they own Real Property Suitable for Occupancy.

If all the above criteria are met, applicants are not eligible for Section 8 housing assistance. However, before denying the applicant, owner/agents should inquire to determine if the applicant meets any of the Exemptions related to the Real Property Rule. The family is exempt when:

1. The property 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 person resides in the jointly owned property;
2. The member is a survivor of a VAWA crime (domestic violence, dating violence, sexual assault, or stalking); or
3. The family is offering such property for sale;
4. The family is receiving assistance under 24 CFR 982.620; or under the Homeownership Option in 24 CFR part 982.

The owner/agent must verify eligibility for exemptions as applicable.

This rule also applies to existing residents whose Section 8 assistance has been terminated and who have requested that the owner/agent reinstate assistance.

When determining continued eligibility for existing assisted residents, owner/agents have three options:

1. Owner/agents may choose not to review eligibility based on the Asset Restrictions at AR/IR; or
2. Owner/agent may choose to enforce the rule and may review eligibility based on the Asset Restrictions at AR/IR. If a resident is determined ineligible, the owner/agent may provide the family up to six months to before beginning the process to terminate assistance; or
3. Owner/agents may choose limited enforcement of the rule and may review eligibility based on the Asset Restrictions at AR/IR. If a resident is determined ineligible, the owner/agent may provide the family up to six months to “cure” and become eligible.

For Component 1 PH to PBRA RAD residents whose TTP is equal to or greater than Gross Rent, the resident is still considered “assisted” unless the resident’s assistance has been terminated for cause.

QUESTION 40. When addressing whether or not a property is suitable for occupancy, is the self-certification stating it is not all you need to verify?

Answer: HUD indicates that the applicant or resident need only self-certify whether or not they own Real Property Suitable For Occupancy located in the jurisdiction where the property is located that the resident has the right to sell. The owner/agent may accept self-certification from the resident – Yes; they own Real Property Suitable for Occupancy or No; they do not own Real Property Suitable for Occupancy.

If a resident is claiming that they own property but that that property is not suitable for occupancy or that the family is exempt, owner/agents should obtain a self-certification and verification as applicable.

One example is, if the property is for sale, the resident should be able to provide a listing agreement.

RBD offers a Self-certification (Self Certification Real Property Exemption) that can be purchased individually and is included in our HOTMA FASTForms package.

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QUESTION 41. Are applicants who submitted an application before 1/1/2024 subject to the new Section 8 Asset Restrictions?

Answer: At this time, owner/agents are not to implement asset restrictions until site software has been updated to comply with HOTMA. Once that happens, eligibility, based on the Section 8 Asset Restrictions, is reviewed when the owner/agent makes the final eligibility determination. This is true regardless of whether or not the application was received before, on or after 1/1/2024.

QUESTION 42. If an owner/agent chooses Non-enforcement of the Section 8 Asset Restrictions for existing tenants, do the Section 8 Asset Restrictions still apply to new applicants?

Answer: Once you have updated your site software, you have the option not to enforce the Section 8 Asset Restrictions for ASSISTED residents, but the rule is applied if an existing resident's assistance is terminated for cause and they request that assistance is reinstated. You can only reinstate Section 8 assistance if the resident is eligible including being eligible based on the new Section 8 Asset Restrictions.

There is no option for applicants. Applicants must be eligible including determining if they are eligible based on the Real Property Rule and the Asset Cap.

QUESTION 43. A site has an applicant on the waiting list who owns a home and has over $100,000 in assets. Site software has not yet been updated to comply with HOTMA. Is the applicant eligible now? The tenant selection plan will allow for persons living in the property that have over $100,000 when revise it by 5/31/24. Am I correct?

Answer: Almost. Owner/agents are to update their TSPs no later than 5/31/2024 but are NOT to implement the new TSP until new site software is installed. So, referencing the current TSP, if the applicant is otherwise qualified, then the applicant can move in.

If the owner/agent is going to implement an Enforcement Policy or a Limited Enforcement Policy, the owner/agent may want to advise the family before they move in.

Once your site software is updated (TRACS 2.0.3.A), owner/agents will implement the new TSP. For Section 8 properties, the Section 8 Asset Restrictions apply to:

1. All applicant families; and
2. All existing families paying market rent who request the owner/agent reinstate assistance.

If the owner/agent is not going to enforce the Asset Restrictions for assisted residents after move-in/initial certification, then the family will continue to be eligible as long as assistance is not terminated.

QUESTION 44. We have an applicant that will be in to sign her move-in paperwork tomorrow (3/2024). She had a home 100 miles away, where she isn't able to live anymore as she is not able to take care of it. Her family also wants her closer to them in order to help her. I have a copy of the Warranty Deed showing that she transferred the home to her son for $1.00. I am having the applicant sign a Disposal of Asset. The house is worth more than $100,000.00. Is this the accurate way to handle this situation? If so, when it comes time to do her AR, will she need to go to market rent or decide to terminate her tenancy since she will be over the asset cap? The disposal of asset amount would come off in August of 2025.

Answer: This is, indeed, an asset disposed of for less than fair market value and will be considered for two years from the date of transfer until August 2025.

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The value that you will use is the cash value. It looks like the house is paid off but you need to ask. If it is not, you need to take the value from county tax records (or other verification source), verify what she still owes and a reasonable cost to sell. Use that as the cash value of the asset less the $1.00.

As for HOTMA and Section 8 Asset Restrictions, which option did you choose?

1. Non-enforcement?
2. Enforcement?
3. Limited Enforcement.

If you chose Non-enforcement, then she will remain eligible unless her assistance is terminated. If her assistance is terminated, and if you're still counting the asset, then she would not be eligible until the two years ends.

QUESTION 45. One exception to the Real Property Rule is that the family is offering such property for sale. So, can the applicant be moved in because of the exception? What happens when they sell that property and they are now over the $100,00 asset rule? Our properties will have a policy that states the Real Property Rule does not apply to current residents. So, this person wouldn't be considered a current resident at the time we implement it. Any guidance would be appreciated.

Answer: There are two things to look at here; 1) The Asset Cap and 2) The Real Property Rule.

If a resident has a property valued at…let's say…$72,000 and the cash value is $45,000, the Real Property Rule would kick in and she would be deemed ineligible. However, if the family claims they are exempt because the house is for sale, and the applicant provides the listing agreement (or other acceptable verification), then you can allow the resident to move in.

Let's say NNPP is worth $40,000. It is not included because NNPP has to be valued at $50,000 or more to be included *(amount subject to annual review and adjustment by HUD if necessary)*. So Total included assets is the cash value of the Real Property - $45,000. This applicant is eligible to move-in.

If you have implemented an enforcement policy or a limited enforcement policy and if she deposits the money in a money market after she sells the house, her Included Assets are now at $90,000 and she's still OK.

However, if a resident has a property valued at…let's say…$272,000 and the cash value is $220,000, the Real Property Rule would kick in and she would be deemed ineligible based on the Real Property Rule. Even if she says she is exempt from the Real Property Rule because the home is for sale, she is still not eligible based on the Asset Cap because the cash value of included assets (the home) exceeds $100,000. *(amount subject to annual review and adjustment by HUD if necessary)*

The applicant would be rejected.

Also, keep in mind, if you decide not to enforce the Section 8 Asset Restrictions for existing **assisted** residents, that's fine. The Section 8 Asset Restrictions do apply to terminated residents paying market rent who want you to reinstate their assistance.

QUESTION 46. I am working on a residents first AR (4/2024). She currently has about $200,000 in her checking account. The account isn't currently shared jointly. Does that matter as of now or should I suggest that she has her daughters added to the account so then she would be under $100,000?

Answer: It is risky to offer financial advice to your applicants or residents.

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In this case, if the daughter stole all her money, her other kids could blame you because you told her to add her daughter to the account. A majority of residents are perfectly capable of making their own financial decisions.

HUD has specifically provided guidance prohibiting you from implementing Section 8 Asset Restrictions until a resident signs the new lease and your site software has been updated. So, at this point, the fact that the net cash value of Included Assets is over $100,000 is not really a concern *(amount subject to annual review and adjustment by HUD if necessary)*. HUD has not released new leases or the final spec for site software developers to use when updating their software.

Also, you are going to need to decide how you will treat existing residents. Will you Enforce Asset Restrictions, implement Limited Enforcement or will you choose not to enforce Section 8 Asset Restrictions for existing assisted residents?

QUESTION 47. The Self-certification of Assets Disposed for Less Than Fair Market Value asks if a home was sold for less than fair market price. Do you put no (did not) if she sold her property at what the realtors say it was worth?

Answer: If the resident sold her house for fair market value, then it is assumed that she accepted a reasonable offer for the home. If a resident had a house and she sold it, that's not an asset disposed of for less than fair market value.

When you're talking about a house disposed of for less than fair market value, an example would be transferring a house to a son or daughter for $1 or $500 or $5,000 when the house is worth $150,000. This is usually done with a Quit Claim Deed.

You would take the cash value of the house, reduce that by whatever money she got, and then use the balance as an asset disposed for two years from the date of sale.

Example	
Home value	$150,000
Less Outstanding Mortgage	$45,000
Less Cost to Sell (7%)	$10,500
Cash Value	$94,500
Less Amount Received	$5,000
Cash Value of Asset Disposed	$89,500

QUESTION 48. What about establishing a written "non-enforcement" policy for Section 8 Asset Restrictions?

Answer: Owner/agents must describe any Section 8 Asset Restriction Enforcement Policy, Section 8 Asset Restriction Non-enforcement Policy or Section 8 Asset Restriction Limited Enforcement Policy implemented for residents living on the property. This must be described in the TSP. Any Section 8 Asset Restriction Enforcement Policy and Section 8 Asset Restriction Limited Enforcement Policy should probably also be included in the House Rules – which are an attachment to the lease.

Remember, any existing Section 8 residents, whose subsidy has been terminated, are subject to an eligibility determination based on the Section 8 Asset Restrictions.

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Owner/agent may not establish non-enforcement policies for existing Section 8 residents whose assistance has been terminated and who have requested that assistance be reinstated.

QUESTION 49. Just to be clear, so owner/agents count assets for a property that is Sec 811 PRAC?

Answer: Owner/agents have always counted assets for PRAC residents. However, the Section 8 Asset Restrictions do not apply to PRAC residents.

QUESTION 50. Does the Section 8 Real Property Rule apply to the PRAC program?

Answer: The Real Property Rule, prohibiting owner/agents from providing assistance to applicants who own a home suitable for occupancy, located in the jurisdiction where the assisted property is located, that the resident has the right to sell, is a Section 8 Asset Restriction and only applies to the Section 8 program. The Real Property Rule (and the Asset Cap) does not apply to residents living in a PRAC property (202 PRAC or 811 PRAC). The Section 8 Asset Restrictions do not apply to 811 PRA, 202 PAC or 202 SPRAC programs either.

If you check out our HOTMA Resources page, RBD has provided a list of HOTMA changes and show whether or not the change applies to a specific program type. RBD HOTMA Rules and Program Type

QUESTION 51. I was under the impression owner/agents could exempt current residents from Section 8 Asset Restrictions, is that true?

Answer: Almost. Owner/agents may adopt a non-enforcement policy that exempts current Section 8 assisted residents from an eligibility determination, based on Section 8 Asset Restrictions, at AR or IR.
However, existing Section 8 residents, whose subsidy has been terminated, are subject to an eligibility determination based on the Section 8 Asset Restrictions if they request that the owner/agent reinstate assistance (IC).

** Special note: Component 1 PH to PBRA RAD residents are considered assisted even if TTP exceeds Gross Rent. Component 1 PH to PBRA RAD residents are not considered assisted if HUD housing assistance has been terminated for cause.*

QUESTION 52. If my resident owns a property in a different state, is that Real Property Suitable for Occupancy?

Answer: If your Section 8 resident owns property suitable for occupancy (et. al), but that property is not located in the jurisdiction where the assisted property is located, then that property does not meet HUD's definition of Real Property Suitable for Occupancy (et. al) under the Real Property Rule. That property is considered Other Real Property and the cash value is included when determining cash value of assets and income from assets.

QUESTION 53. Who determines and/or verifies that a home isn't suitable for occupancy?

Answer: HUD provides specific criteria. Owner/agents must ask if any member of the family owns a residence suitable for occupancy located in the jurisdiction where the assisted property is located that a family has the right to sell.

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A dwelling will be considered "suitable for occupancy" unless the family demonstrates that it:

1. 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.);
2. Is not sufficient for the size of the family;
3. 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 owner);
4. 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 & safety and the condition of the property cannot be easily remedied); or
5. Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

The resident is exempt from the Real Property Rule if:

1. Any property 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 person resides in the jointly owned property;
2. The member is a survivor of a VAWA crime (domestic violence, dating violence, sexual assault, or stalking); or
3. The family is offering such property for sale;
4. The family is receiving assistance under 24 CFR 982.620; or under the Homeownership Option in 24 CFR part 982.

Owner/agents must document, and in some cases verify, if an applicant or resident is exempt from the Real Property Rule when the family owns real property suitable for occupancy.

QUESTION 54. What if the proceeds from the sale of property is anticipated to exceed $100,000?

Answer: Then the owner/agent would have to determine if the cash value of Included Assets is more than $100,000 *(amount subject to annual review and adjustment by HUD if necessary)*. If so, and when the owner/agent is enforcing the Section 8 Asset Restrictions, or if the owner/agent has implemented a limited enforcement policy, the owner/agent would comply with their own policy related to termination of assistance.

If the owner/agent has adopted a policy not to enforce the Section 8 Asset Restrictions when creating any AR or IR for existing residents, then the value of Included Assets doesn't really matter in relation to continued eligibility.

QUESTION 55. As an owner/agent, do not want to become financial advisors (FA) for our residents or applicants. Are there expert FAs that already have established expertise in this area that residents or applicants may contact?

Answer: Owner/agents should never act as financial advisors for residents who are no longer eligible for assistance when the owner/agent chooses to enforce, or implement limited enforcement, of the Section 8 Asset Restrictions. We know of no organizations offering financial advice to residents.

Additionally, owner/agents may be liable if they provide referrals; if the FA gives a resident bad advice, owner/agents could be considered liable.

QUESTION 56. Have you heard anything about LIHTC following the Section 8 Asset Restrictions? Our state agency has not mentioned it yet.

Answer: Section 8 properties are often layered with LIHTC funding, and when that is the case, the Section 8 Asset Restrictions may apply to any units under the Section 8 contract (based on owner/agent policy).

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Our interpretation is that a property with LIHTC funding, without Section 8, would not be subject to the Section 8 Asset Restrictions. Owner/agents with LIHTC contracts should check with the state agency monitoring LIHTC compliance.

QUESTION 57. Can you enforce the Section 8 Asset Restrictions at move-in and not for existing tenants?

Answer: Section 8 owner/agents must enforce the Section 8 Asset Restrictions at MI. The Section 8 Asset Restrictions must also be enforced when a resident's assistance is terminated for cause and the resident wishes to reinstate subsidy.

Owner/agents may implement a Section 8 Asset Restriction Non-enforcement policy, used when creating ARs and IRs for existing assisted residents. This means that the owner/agent would not determine whether or not the family is eligible based on the Section 8 Asset Restrictions.

QUESTION 58. Where do you place this policy decision? In the lease?

Answer: This must be described in your TSP no later than 5/31/2024.

QUESTION 59. Do the Section 8 Asset Restrictions apply to each individual or to the entire family?

Answer: The Section 8 Asset Restrictions are applied based on all assets owned by the family.

QUESTION 60. Is it OK to start denying application if an applicant states they have real property?

Answer: HUD prohibits owner/agents from implementing new "HOTMA compliant" TSPs until site software has been updated. Thus, no, owner/agents should not be denying Section 8 applicants based on the Section 8 Asset Restrictions.

QUESTION 61. What is the advantage of enforcing Section 8 Asset Restrictions for existing assisted residents?

Answer: It could result in more affordable housing for eligible families.

QUESTION 62. Let's say an owner/agent decides not to enforce the Section 8 Asset Restrictions for existing assisted residents. If, after implementing HOTMA, someone moves-in and the net cash value of Included Assets is less than $100,000 *(amount subject to annual review and adjustment by HUD if necessary)*, but then the value of included assets changes and exceeds $100,000 *(amount subject to annual review and adjustment by HUD if necessary)* is the resident still eligible?

Answer: Yes. In this example, the eligibility was determined at move-in and assistance has not been terminated. The owner/agent will not review eligibility at AR or IR since the owner/agent has decided not to enforce Section 8 Asset Restrictions after move-in.

QUESTION 63. If an applicant is claiming they are exempt from the Real Property Rule because they are a survivor of a VAWA crime, how is this verified?

Answer: HOTMA does not change any of the VAWA verification rules. The applicant need only provide a complete HUD Form 5382 – Certification as a Victim of a VAWA Crime as verification of their status. You are only allowed to ask for additional verification if you have conflicting information.

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The resident may voluntarily provide police reports, witness statements, etc., but you cannot require them unless there is conflicting information. Your property VAWA policy must explain verification options.

QUESTION 64. What if an applicant for Section 8 housing owns Real Property Suitable for occupancy BUT they are planning to sell the property and their asset would not exceed 100,000.00 after sale, would they be able to get on the section 8 wait list?

Answer: In this example, the resident does not qualify based on both of the Section 8 Asset Restrictions (Asset Cap & Real Property Rule). When an owner/agent receives an application, the owner/agent must conduct a preliminary review to determine if the applicant should be rejected or be added to a property waiting list (if no units are available).

Based on guidance provided in HH 4350.3 Change 4, Paragraph 4-16.A, the applicant would be rejected and would not be added to the waiting list.

QUESTION 65. With respect to Section 8 Asset Restrictions, can you confirm if HUD wants owner/agents to terminate assistance or terminate tenancy.

Answer: If an owner/agent has implemented a Section 8 Asset Restriction Enforcement Policy or Section 8 Asset Restriction Limited Enforcement Policy, the owner/agent will terminate assistance if the owner/agent determines the resident is no longer eligible based on the Asset Restrictions.

DEDUCTIONS

QUESTION 66. How does the Dependent Deduction work?

Answer: Per HH 4350.3 Paragraph 5-10, the owner/agent provides a Dependent Deduction for any family member (not HOH, co-HOH/spouse or fosters) who is:

1. A minor; or
2. Disabled; or
3. A full time student.

Non-family members are never dependents.

For 2024, the Dependent Deduction is $480. The amount is subject to annual review and adjustment by HUD.

QUESTION 67. If the student is working and doing his/her own income taxes and the parents do not claim the student as a dependent, is the family entitled to the $480 Dependent Deduction *(amount subject to annual review and adjustment by HUD if necessary)*?

Answer: If the student is a member of the family, is not the HOH, co-HOH/spouse and is a full-time student, the family is entitled to the Dependent Deduction - $480 in 2024 *(amount subject to annual review and adjustment by HUD if necessary).* In addition, earned income is capped at the amount of the Dependent Deduction. The student does not have to be living with his/her/their parent(s) nor does the student have to be listed as a dependent on a parent's tax return. HUD rules related to the dependent status of students are not the same as the rules established by the Internal Revenue Service.

QUESTION 68. I thought HOTMA changed the rules for Childcare. I was told that the Childcare Expense Deduction was only allowed if the resident paid childcare to work or go to school. Looking for work was no longer a criteria?

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Answer: Anticipated expenses for the care of children under age 13 (including foster children) may be deducted from annual income if all of the following are true:

a. The care is necessary to enable a family member to work, seek employment, or further his/her education (academic or vocational).
b. The family has determined there is no adult family member capable of providing care during the hours care is needed.
c. The expenses are not paid to a family member living in the unit.
d. The amount deducted reflects reasonable charges for child care.
e. The expense is not reimbursed by an agency or individual outside the family.
f. Child care expenses incurred to permit a family member to work must not exceed the amount earned by the family member made available to work during the hours for which child care is paid.

When child care enables a family member to work, the rule limiting the deduction to the amount earned by the family member made available to work applies only to child care expenses incurred while the individual is at work. While that family member is at school or looking for work, the expense for child care is not limited.

EIV

QUESTION 69. Owner/agents will no longer review the EIV Income Discrepancy Report or address EIV Income Discrepancies after owner/agents implement HOTMA (before HUD supplies an update changing the algorithms used to identify income discrepancies). Will the Discrepancy Report still generate when owner/agents choose the "Print All" option?

Answer: We assume that it will. Owner/agents may want to note that the Income Discrepancy Report has not been updated and was not reviewed in compliance with the EIV policy. Owner/agents must still review the EIV Income Report and Income Summary Report.

QUESTION 70. Is the 92006 and the Consent for Disclosure of EIV information the same?

Answer: No, they are not the same. Since 2009, HUD Form 92006 was designed to assist owner/agents in efforts to comply with Section 644 of the Housing and Community Development Act of 1992 (Section 644). Under Section 644. Owner/agents must provide applicants as part of their application for housing, the option to include information about an individual or organization that may be contacted to assist in providing any delivery of services or special care to applicants who become tenants and to assist with resolving any tenancy issues arising during tenancy.

The Consent for Disclosure of EIV Information, introduced in 2013, gives residents the opportunity to authorize a third party (including another person living in the unit with the resident) to view and/or discuss EIV information identified on the form for the sole purpose of assisting in the recertification of a resident's housing assistance in accordance with the rights afforded to by the Privacy Act of 1974.

If you are going to use EIV at AR and allow residents to self-certify income earned in the previous 12 months, then each resident with income in EIV would have to self-certify whether the EIV information is correct or not.

If one resident will be able to view or access another resident's EIV information, then a record of consent must be provided. If someone outside the unit will view EIV reports, then each person displayed on the Income Report must provide consent.

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For example:

- Ken and Kara Kroger live in Magnolia Gardens.
- When it is time to complete their AR, they prefer to meet with the property manager together.
- Since the property manager will be discussing EIV information for both members at the same time, the property manager:
  1. Asks Ken to sign a Consent for EIV Disclosure noting that he gives permission for the property manager to share his EIV information with Kara;
  2. Asks Kara to sign a Consent for EIV Disclosure noting that he gives permission for the property manager to share her EIV information with Ken;

Once the consent is signed, there is no instruction from HUD saying that it must be signed each year, so it should be stored in the tenant file in such a way that it will not be purged when the owner/agent archives tenant file information.

NEW HIRES REPORT

QUESTION 71. Regarding the New Hires report. There has been little change to the Master File requirements, so do owner/agents still have to run the quarterly New Hires report, but owner/agents don't have to investigate until AR? Do owner/agents just produce the report and retain it in the Master File without reviewing it?

Answer: All of these changes can be very confusing so don't get discouraged and please ask questions if you don't understand one of the changes discussed in class. There are two things that drive changes to the New Hires Report.

1 – Will you use Means Tested Verification? If you use Means Tested Verification – you do not have to review the New Hires Report <u>for that tenant</u> at AR. You still have to review the New Hires Report quarterly for other tenants and at AR for other tenants.

2 – If the owner/agent's policy is to require an IR for increases in income after an IR decrease, then the owner/agent must review the report quarterly after the family's IR decrease.

I would suggest you keep it simple.

Since you have to review the information quarterly for some residents, but not for others, continue to review the New Hites Report every quarter, keep it in your Master File, just like you're doing now, and address any unreported new income appropriately.

For our customers, the only change to the review of the New Hires Report is that they will run the New Hires Report at AR, which is something owner/agents were not required to do in the past. (Not to be implemented until site software is updated).

HUD has not indicated change to requirements for the Master File except for those customers who will not consider earned income increases until AR; for those owner/agents, the review of the New Hire Report is not required at all.

HUD has given owner/agents permission to remove the requirement to review the EIV Income Reports at IR. (Not to be implemented until site software is updated)

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Customers must also modify the review of EIV Income Reports after MI/addition of a new member from "review no more than 90 days after submission of the MI/IR adding a member" to "review no more than 120 days after submission of the MI/IR adding a member". *(Not to be implemented until site software is updated)*

HUD has removed the requirement to review the EIV Income Discrepancy Report after MI, after addition of a new member, and at AR until HUD updates the formula. *(Not to be implemented until site software is updated)*

While not required by HUD, in RBD EIV policy templates, we decided to remove the use of EIV when conducting 90 day review of income for zero income families. The 90 review of income for zero income families has been removed as well.

QUESTION 72. Currently, the New Hires Report is maintained in the Master File with notes about the outcomes of Tenant contact. Since the quarterly report is going away, that will stop?

Answer: Owner/agents still review the New Hires Report quarterly unless the owner/agent adopts a policy to ignore all earned income increases until the next AR.

Owner/agents are not required to address New Hires errors for residents when Means-tested verification was used to determine income at move-in or when creating the last AR.

If the owner/agent opts to ignore all earned income increases until the next AR, this must be described in the TSP.

QUESTION 73. Are owner/agents still required to review the New Hires Reports?

Answer: Remember, per HUD, EIV changes are not to be implemented until site software is updated. Once site software is updated and when the owner/agent implements EIV changes, the New Hires Report is required at AR unless the owner/agent is using Means-tested verification.

The New Hires Report is also reviewed at least quarterly, unless, once site software is updated, you will not consider earned income increases except at AR.

HARDSHIP EXEMPTIONS

QUESTION 74. Are owner/agents required to provide Financial Hardship Exemptions (General Relief) and Childcare Hardship Exemptions.

~~**Answer:** Based on the Notice, HUD seems to indicate that owner/agents have the option of implementing these two Hardship Exemptions. Page 46 of the Notice says:~~

- ~~*PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption.*~~
- ~~*PHAs/MFH Owners must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable*~~.

Based on clarification received from HUD on 7/8/2024, both the Childcare Hardship Exemption and the Financial Hardship Exemption are required. Owners do not have the discretion over whether or not to offer these exemptions.

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QUESTION 75. **If I understood correctly, the Hardship Exception for Health & Medical Care Expense Deduction & Auxiliary Apparatus Expense Deduction is optional. Therefore, the Phase-in Exemption and the Financial Hardship Exemption (General Relief) are optional as well, correct? Could you point me to the language on the notice that addresses this?**

Answer: ~~In relation to the Financial Hardship Exemption (General Relief) and the Childcare Hardship Exemption, we interpret these to be optional. See the Notice language:~~

- ~~*PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption.*~~
- ~~*PHAs/MFH Owners must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.*~~

Based on clarification received from HUD on 7/8/2024, both the Childcare Hardship Exemption and the Financial Hardship Exemption are required. Owners do not have the discretion over whether or not to offer these exemptions.

However, if an assisted resident was receiving the Medical Expense Deduction or the Disability Assistance Expense Deduction on 1/1/2024 and that resident still lives on the property and still qualifies for Phase-in, then the owner/agent is obligated to provide a phased-in increase to the deduction percentage.

When creating the first AR or IR after site software has been updated, owner/agents will determine the Medical/Disability deduction by using any out-of-pocket medical expenses that exceed 5% of Annual Income.

After 12 months at 5%, owner/agents will determine the Medical/Disability deduction by using any out-of-pocket medical expenses that exceed 7.5% of Annual Income.

After 12 months at 7.5%, owner/agents will determine the Medical/Disability deduction by using any out-of-pocket medical expenses that exceed 10% of Annual Income.

If the resident's assistance is terminated for cause, then the Phase-in Hardship Exemption ends.

Owner/agents may adopt a policy to continue the Phase-in Hardship Exemption for eligible residents at MI. If the owner/agent opts to continue Phase-in Hardship Exemptions at MI, this must be described in the TSP.

QUESTION 76. **The Childcare Hardship Exemption and the Financial Hardship Exemption (General Relief) are only granted if the resident would not otherwise be able to pay rent. Who decides if a resident requesting a Hardship Exemption can pay the rent? Is there a %?**

Answer: The owner/agent will have to establish their own criteria to determine if a resident can pay 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 (Childcare Expenses or Health & Medical Expenses) is more than 45 percent of the family's Annual 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. Owner/agents may use different percentage thresholds or methods for determining a family's inability to pay rent.

QUESTION 77. **The Section 8 elderly property is set aside for seniors and disabled families - should the**

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owner/agent still have a Childcare Hardship Exemption policy?

Answer: Yes. Per HH 4350.3 Paragraph 3-23, owner/agents may not exclude otherwise eligible elderly families with children from elderly properties or elderly/disabled properties covered by this handbook. Therefore, you should decide if you will offer a Childcare Hardship Exemption if a family with a child or children moves in to the community.

Please note that, based on clarification received from HUD on 7/8/2024, both the Childcare Hardship Exemption and the Financial Hardship Exemption are required. Owners do not have the discretion over whether or not to offer these exemptions.

PHASE-IN HARDSHIP EXEMPTION (PHASE-IN RELIEF)

QUESTION 78. Does the mandatory Phase-In Hardship Exemption apply to both Medical Deductions AND Disability Deductions?

Answer: Yes, if a resident was receiving HUD assistance as of 1/1/2024 and if, at that time, the resident received a deduction for a Medical Expense or a Disability Assistance Expense, then the resident is qualified for the Phase-in Hardship Exemption. That could be the Health & Medical Expense, the Attendant Care & Auxiliary Apparatus expense or both.

QUESTION 79. Is the 10% medical expense percentage and the Phase-in percentages subject to annual adjustment by HUD?

Answer: There is no indication that HUD will review these percentages annually and change the percentage values. We expect these percentages to stay the same at least through the full implementation of HOTMA.

QUESTION 80. After new site software is implemented and when processing a new application, and if the owner/agent does not allow continuation of Phase-in at Move-in, is the Health & Medical Expense Deduction the out-of-pocket expense that exceeds 10% of Annual Income?

Answer: Yes. That is true unless the applicant has requested and you have granted a Financial Hardship Exemption.

QUESTION 81. When a resident moves in to the second year of Phase-in, when the Health & Medical Expense Deduction is the out-of-pocket expense that exceeds 7.5% of Annual Income, may the resident request a Financial Hardship Exemption (General Relief) to keep the percentage at 5%?

Answer: Yes, the resident may request and you may grant a Financial Hardship Exemption. Keep in mind that eligibility for the Financial Hardship Exemption ends after 90 days (or earlier if the resident's situation changes). Owner/agents may extend the exemption for additional 90 day increments if desired. The owner/agent must explain, in the TSP, if and/or how many times the Exemption may be extended.

While the resident may convert from the Phase-in Exemption to the Financial Hardship Exemption, the resident may not "go back". If the Financial Hardship Exemption ends, the residents Medical Expense Deduction will be the amount that exceeds 10% of Annual Income.

QUESTION 82. When applying the Phase-in Hardship Exemption, is an owner/agent allowed to cap the percentage at 7.5% of Annual Income?

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Answer: No. The Phase-in Hardship Exemption calls for owner/agents to provide Phase-in for any assisted residents who were receiving either a Medical Expense Deduction or a Disability Assistance Expense Deduction as of 1/1/2024.

When creating the first AR or IR after implementation of new site software, owner/agents will increase the percentage of Annual Income to 5%. The 5% of Annual Income will be used to reduce medical expenses and determine the Health & Medical Expense Deduction for 12 months.

After 12 months, the owner/agent must create an IR, non-Interim or AR (as appropriate) changing the calculation percentage from 5% of Annual Income to 7.5% of Annual Income.
The 7.5% of Annual Income will be used to reduce medical expenses and determine the Health & Medical Expense Deduction for the next 12 months.

At the end of the second 12 month period, the owner/agent must create an IR, non-Interim or AR (as appropriate) changing the calculation percentage from 7.5% of Annual Income to 10% of Annual Income.

Please note if assistance is terminated for cause, and if the resident wishes to reinstate assistance, the Phase-in Hardship Exemption no longer applies and the owner/agent will include, as the deduction, out-of-pocket expenses that exceed 10% of Annual Income.

The resident family may still qualify for the Financial Hardship Exemption (General Relief).

QUESTION 83. Are owner/agents required to start Phase-in on the first AR or IR after site software is updated or may the owner/agent wait until the first AR.

Answer: HUD requires owner/agents to start Phase-in with the first AR or IR after site software is updated.

QUESTION 84. For existing residents receiving the Medical Expense Deduction and/or the Disability Assistance Expense Deduction when site software is updated to comply with HOTMA, owner/agents won't start Phase-in until their next IR or AR, correct? Owner/agents are not required to create an IR after the conversion for all residents?

Answer: HUD requires owner/agents to start Phase-in with the first AR or IR after site software is updated. You do not have to create an IR, immediately after site software is updated, to change the percentage unless there is another reason to create an IR.

QUESTION 85. If someone has an IR in October, then their AR is in November, is that two Phase in's? 5% for IR then 7.5% on AR?

Answer: If you have implemented new site software and a resident requests an IR that will be effective in October, you will start Phase-in in October (the IR will show the Medical Expense Deduction will be calculated using 5% of Annual Income). When you create the AR effective in November, the percentage will remain at 5%. In October of the following year, the owner/agent is required to create an IR to change the percentage to 7.5% of Annual Income (subject to HUD guidance related to each deduction).

QUESTION 86. May owner/agents continue Phase-in at Move-in?

Answer: Owner/agents may establish a policy to continue phase-in for qualified residents at Move-in. If the owner/agent will do so, this must be described in the Tenant Selection Plan.

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It has been suggested that HUD add a *Phase-in Start Date* to the 50059 so that an owner/agent will know when Phase-in started at the original property and when each 12 month cycle ends. If that is the case, the owner/agent will be able to use the most recent certification to verify that the resident qualifies for Phase-in and when Phase-in started.

QUESTION 87. Are owner/agents required to continue Phase-in at Move-in?

Answer: Owner/agents are not required to establish a policy to continue Phase-in at Move-in.

QUESTION 88. Can owner/agents just apply Phase-in to all eligible households without their request?

Answer: For residents who lived on your property on January 1, 2024 and who were receiving the Medical Expense and/or Disability Assistance Expense Deductions on that date, Phase-in should start automatically, with the first AR or IR created after new site software is implemented,

Your challenge will be those residents who moved onto your property on or after January 1, 2024 who qualified for Phase-in on January 1, 2024. Owner/agents who wish to continue Phase-in after MI may want to consider whether or not you will need to take any special steps to start Phase-in once new site software is implemented. For example:

1. 70 year old resident was living in Sterling Estates (a S8 apartment) on December 31, 2023 and was receiving a Medical Expense Deduction.
2. On June 1, 2024, resident moved to Sunset Village (a PRAC apartment)
3. The OA has a policy of allowing Phase-in to continue at MI
4. Site software is updated on September 1, 2024

This means that the OA should be able to start Phase-in for this resident when creating the June 2025 AR even though the resident did not live on the property on December 31.

Site software providers should be able to tell you how their site software will be programmed to handle this scenario.

QUESTION 90. How do owner/agents notify residents about the Phase-in and changes to the Medical Expense Deduction?

Answer: You are required to notify residents about changes to the rent calculation before creating their first AR or IR after implementation of new site software.

One suggestions is to put together a "package" that provides residents with updated information about Changes to Deductions and changes to eligibility rules related to Section 8 Asset Restrictions.

If you have a Tenant Organization, you may want to ask to be added to the agenda for an upcoming meeting. Also, you could assign someone who can be contacted if applicants or residents have questions about the changes.

QUESTION 91. If a resident was living on the property on January 1, 2024 but was not receiving a Medical Expense Deduction or a Disability Assistance Expense Deduction, there is no Phase-in, right? Even if the resident now qualifies for the Medical Expense.

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Answer: In order to qualify for Phase-in , the resident must have been receiving the Medical Expense Deduction and/or the Disability Assistance Expense Deduction as of January 1, 2024.

If the resident family becomes qualified for the Medical Expense Deduction or the Disability Assistance Expense Deduction after January 1, 2024, then the deduction on the first certification created after site software is implemented will be the out-of-pocket expense that exceeds 10% of Annual Income (subject to HUD guidance related to each deduction).

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QUESTION 92. What if a family reported medical expenses in the prior year, but the expenses were less than 3% of Annual Income so no deduction was included when calculating TTP; is that family still eligible for Phase-in since they had expenses or are they ineligible for Phase-in because there was no Medical Expense Deduction and/or no Disability Assistance Expense Deduction?

Answer: The family must have been receiving a deduction for Medical Expenses or Disability Assistance Expenses on January 1, 2024.

QUESTION 93. If, as of January 1, 2024, the family had expenses, but not there was no Medical Expense Deduction or Disability Assistance Expense Deduction, then does the family still qualify for the Phase-in Hardship Exemption. Let's say there is a resident family and their September 1, 2023 AR included a Medical Expense Deduction. This means as of January 1, 2024 the resident's AP was calculated with a Medical Expense thus making the resident eligible for Phase-in. On September 1, 2024 (after site software has been updated), the resident's medical expenses do not exceed 5% of Annual Income so there is no Medical Expense Deduction. Does the resident still qualify for Phase-in?

Answer: Yes. The medical expenses would be entered on the 50059 (as they are now) and the September 1, 2024 would be calculated using 5% of Annual Income (first 12 months of Phase-in) - even if the result is $0 Medical Expense Deduction.

For the September 1, 2025 AR, medical expenses would be entered on the 50059 (as they are now) and the September 1, 2025 would be calculated using 7.5% of Annual Income (second 12 months of Phase-in) - even if the result is $0 Medical Expense Deduction.

For the September 1, 2026 AR, medical expenses would be entered on the 50059 (as they are now) and the September 1, 2026 would be calculated using 10% of Annual Income (end of Phase-in) - even if the result is $0 Medical Expense Deduction.

QUESTION 94. Does Phase-in continue if a family transfers to another unit within the same property?

Answer: The owner/agent must continue to provide Phase-in Relief. The owner/agent will continue to determine the Health & Medical Expense Deduction and/or the Attendant Care & Auxiliary Apparatus Expense Deduction using the appropriate percentages based on when Phase-in started.

QUESTION 95. Does Phase-in continue if a family's unit is converted to PBRA RAD?

Answer: The owner/agent must continue Phase-in. The owner/agent will continue to determine the Health & Medical Expense Deduction and/or the Attendant Care & Auxiliary Apparatus Expense Deduction using the appropriate percentages based on when Phase-in started under the original contract before conversion to PBRA RAD.

INCOME

QUESTION 96. Is a required Minimum Distribution (RMD) from a retirement account, counted as income?

Answer: Yes. HUD clarified, in 2014, that an RMD is counted when determining Annual Income. When TRACS 2.0.3.A is released, the owner/agent will use the new income code *RT – Income from a Retirement Account or Other Like Account.*

Currently, when recording an RMD, owner/agents use O – Other Non-wage Source.

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Regardless of whether or not the retirement account is making a regular periodic payment (including the RMD), the cash value of the retirement account and earnings from the retirement account are excluded under HOTMA.

QUESTION 97. In the class exercise, the resident listed $323 which was the amount family members, living outside the unit, pay for the residents renter's insurance each year. You counted that amount when determining Annual Income. Why?

Answer: In the exercise, the resident disclosed that the family pays $323 annually for renter's insurance. This is a regular contribution (gift) and is counted when determining Annual Income.

QUESTION 98. If the family is paying a resident's monthly cell phone bill, would that be considered income for the resident or an in-kind donation?

Answer: The monthly amount paid would be considered income if the family is consistently paying the bill. This is not a HOTMA change. Regular periodic payments made on behalf of the resident, by someone who does not live in the unit, have been considered income since 2003.

QUESTION 99. Are owner/agents allowed to begin using the new income and exclusions now? One example is excluding IHHS income for a family member living in the household.

Answer: Owner/agents may implement certain aspects of HOTMA now including implementing the new HOTMA income inclusions and exclusions. It is recommended that you document when you implemented HOTMA changes in some sort of HOTMA file.

Our RBD HOTMA Implementation Deadlines is available on our HOTMA Resources page and may help you determine when you want to implement changes.

QUESTION 100. Does the Section 8 Income Targeting Rule still apply with HOTMA?

Answer: Yes. For Section 8 programs, each fiscal year, 40% of all MI/IC certifications must be for families whose income is at or below the Extremely Low Income Limit.

Certain exceptions apply to ICs created to convert a resident to PBRA RAD.

QUESTION 101. Can owner/agents use an Award Letter, with no date, to verify the COLA increase?

Answer: In HSG Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA), HUD indicates that owner/agents may use the federal award/benefit letter for the entire award year. The document no longer has to be dated within 120 days of receipt by the owner/agent.

QUESTION 102. Can owner/agents require residents to get a current letter from SS even though HUD says an award letter for the award year is acceptable verification and that the letter no longer has to be no more than 120 days old upon receipt?

Answer: Why would you unless you must also comply with other rules because there is layered funding? Unless you have reason to believe the award amount has changed, there is no reason to add burden to the AR verification process.

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QUESTION 103. What if SSA announces the COLA, and I have completed some certifications effective January 1 or later but have not completed all certifications effective January 1 or later, do I need to go back and apply the COLA to the completed certifications for a particular month so that all the certifications for the same month all include the COLA (for consistency)? For example, should I correct completed 1/1 certifications to include the COLA so that all January certification include the COLA?

Answer: Owner/agents are to apply the COLA to incomplete certifications effective 1/1 or later starting the day after the COLA is announced. Owner/agents are not required to correct completed certifications.

QUESTION 104. We have Section 8 with LIHTC funding and, once the COLA is announced, we prorate. Is that still required?

Answer: For HUD's programs, owner/agents have two options.

1. Owner/agents may use the current amount of SS and just project it forward for 12 months, or,
2. Owner/agent may calculate income including any anticipated changes expected in the upcoming year.

For example:

11/1/2024 AR Using Current Income Projected for 12 Months			
Description	**Monthly Income**	**Annual Income**	
Resident's current SSA as of Sept. 1	$1,505.00	(1505 * 12)	$18,060.00
11/1/2024 AR Using Current Income & Anticipated COLA increase			
On October 15, SSA COLA Announced at 5.2%. November AR is not complete.			
Resident's SSA Nov & Dec	$1,505.00	(1505 * 2)	$3,010.00
Resident's 2025 SSA	$1,583.26	(1583.26 * 10)	$15,832.60
Total Income SSA		(3010 + 15832.60 = 18842.60)	**$18,843.00**

Either option is compliant for HUD programs. For LIHTC, owner/agents should anticipate any changes that will occur in the upcoming year.

QUESTION 105. Are owner/agents required to complete IRs for everyone when the COLA is released?

Answer: You should not complete an IR for a COLA increase unless the increase causes Annual Adjusted Income to increase by at least 10%.

QUESTION 106. If a COLA increases unearned income for multiple family members and the result of that increase, along with other increases (not increase to earned income), created a 10% increase to Annual Adjusted Income, is the owner/agent required to submit an IR including the COLA increase?

Answer: Yes. That's how we interpret HUD's guidance.

QUESTION 107. If there is a COLA increase in conjunction with another unearned income increase and the result is an Annual Adjusted Income increase that is more than 10% , will the owner/agent apply the COLA at that time?

Answer: Yes, the owner/agent should apply, as appropriate, any changes to income, household composition, assets or expenses when completing the IR.

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QUESTION 108. We had a situation when the new COLA was announced and it pushed tenants over the $200/month threshold and we had to submit IRs. Would we do the same if somehow the COLA increase pushed them up over the 10% rule?

Answer: Yes, if a COLA increase created a cumulative Annual Adjusted Income increase of 10% or more, the owner/agent would create and submit an IR.

QUESTION 109. At move-in, when the applicant provides the Award Letter that is received towards the end of the year (Award Letter), things like Medicare premiums and child support aren't listed on the Award Letter.

Answer: If the resident reports income or an expense that is not listed on the Award Letter, those amounts would have to be verified separately.

QUESTION 110. If worker's compensation is now excluded and if a resident receives worker's compensation, is the family now a zero income family?

Answer: Assuming the resident lives alone in your example, the resident is not a zero-income resident. Rather the reported income is excluded. Technically, Zero-income families report no income (excluded or not).

QUESTION 111. I have 2 tenants who work through the SCSEP/Title V Mature Worker Program. How do I report this income, because it is not supposed to affect their eligibility and wages?

Answer: If you have verified that this income is Title V income, then it should not be included on the 50059 when you are determining Non-asset Income. Title V income is excluded. This is not a HOTMA change.

QUESTION 112. If a resident's family, who do not live in the unit, provide the resident with $5000 to pay tuition, is this treated as student financial assistance or is this income?

Answer: Under HOTMA, gifts/contributions from family are not considered or treated as student financial assistance. If the gift is a one-time gift, it would be treated as an asset (or the account the money is deposited into is treated as an asset). If the gift is a recurring gift, then the owner/agent will treat it as a regular contribution and it will be counted when determining annual income.

QUESTION 113. Are owner/agents required to conduct a quarterly income review for families claiming zero income?

Answer: While strongly suggested, this has never been a HUD requirement. Appendix 3 of HH 4350.3 Change 4 indicates that owner/agents may conduct quarterly reviews, it's an option and not required.

With the new rules regarding changes to earned income, we are no longer recommending quarterly reviews for families claiming zero income.

INTERIM RECERTIFICATION

QUESTION 114. Residents will be required to report changes that result in a 10% change to Annual Adjusted Income rather than a $200 increase to Annual Income. Will you explain the calculation?

Answer: Upon request for an IR, the owner/agent would calculate the Annual Adjusted Income using new HOTMA rules. Once the owner/agent has determined the new Annual Adjusted Income, the owner/agent will take the new income and subtract the Annual Adjusted Income on the certification that is in effect.

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Then, the owner/agent will take the difference and divide that amount by the Annual Adjusted Income on the certification that is in effect.

Example. Request for Interim Recertification – Unearned Income Decrease

Steve reported his monthly child support payment was reduced from $200 to $100 per month.
No additional changes were reported.

11/2024 AR			IR Request 2/15/2025	
Sexton Annual Income	53,650		Sexton Annual Income	52,450
Dependent Deduction	480		Dependent Deduction	480
Childcare	10,000		Childcare	10,000
Annual Adjusted Income (AAI)	43,170		Annual Adjusted Income (AAI)	41,970
			$ Variance	-1,200
			Variance %	-2.78

In this example:
41,970 – 43,170 = -1,200 This is the difference between the old AAI and the new AAI.

-1,200 / 43,170 = -.02779708 x 100 = -2.78%

An IR was **not** processed, because the reduction in child support for Sarah, did not result in an Annual Adjusted Income decrease of 10% or more and, for this example, the owner/agent has not established a lower threshold.

QUESTION 115. If a resident requests an IR that results in an Annual Adjusted Income decrease that is less than 10%, is the owner/agent required to submit an IR?

Answer: If the decrease is caused by the removal of a family member, then, yes, owner/agents are required to submit an IR.

If the decrease is caused by some other action, then the owner/agent is not required to submit an IR unless the owner/agent has established a lower percentage threshold for Annual Adjusted Income decreases.

QUESTION 116. May an owner/agent delay creation of an IR when a resident reports a change and the Next Recert Date is next month?

Answer: When a resident reports a change in a timely manner, that would result in an Annual Adjusted Income INCREASE of 10% or more and when that change is reported within three months of the next AR, the owner/agent may wait to include that change on the AR. Keep in mind that the resident is still entitled to a 30 Day Notice of Rent Increase as provided in the HUD lease.

If an owner/agent implements this policy, it must be described in the TSP.

QUESTION 117. If an owner/agent wants to establish a rule to delay including an income change if it is reported within 3 months of the next AR, does this apply to all changes or just increases?

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Answer: The rule allowing owner/agents to delay including an income change if it is reported within 3 months of the next AR applies only to the 10% (or more) INCREASE to Annual Adjusted Income.

QUESTION 118. A resident's AR is in December 2024. The AR is finished October 2, 2024. In January, the resident reports that Medicare is now $195/month. Will the owner/agent create an IR to capture the new Medicare expense.

Answer: At this time, if the change to the Medicare premium causes the Annual Adjusted Income decrease of 10% or more, the owner/agent must create an IR. Owner/agents may establish a lower percentage threshold (e.g. 2% instead of 10%).

QUESTION 119. Is an owner/agent allowed to develop a policy to ignore earned income changes until the next AR?

Answer: An owner/agent may develop a policy to delay including an earned income INCREASE until the next AR. However, owner/agents must create an IR if an earned income DECREASE creates a decrease to Annual Adjusted Income of 10% or more (or a lower threshold established by the owner/agent).

QUESTION 120. If a resident experiences a earned income increase that results in an Annual Adjusted Income increase of 10% or more and the owner/agent has not processed an IR reducing income since the last AR, does HOTMA prohibit the owner/agent from creating an IR even though there was a job change?

Answer: That is correct. If the owner/agent has not submitted an IR reducing income since the last AR and if the earned income increase, creating an Annual Adjusted Income increase of 10% or more, is the only change reported, no certification is submitted to HUD. This is not optional and the percentage may not be adjusted by the owner/agent.

QUESTION 121. So, if at the last AR someone was not working, but they did get a job before next AR are you saying they do or do not have to report?

Answer: Owner/agents must decide if the job would be reported in this case. This will be included in any Reporting Policy – which must be included in the TSP. Owner/agents may want to consider adding the policy to the House Rules. Our recommendation is to have residents report all pertinent changes. The resident would report the job, but any new earned income would not be considered unless an IR, reducing income, has been submitted since the last AR. This is true even if the family reported other changes. The new earned income would not be included when determining if an IR is required.

QUESTION 122. If a resident reports an increase to earned income and an increase to unearned income, and the changes, individually, would create an increase to Annual Adjusted Income that exceeds 10%, does the owner/agent have to verify the change to employment income, if no IR reducing Annual Adjusted Income has been submitted since the last AR?

Answer: Since the owner/agent is not allowed to consider the earned income increase unless an IR reducing income has been submitted since the last AR, there is no reason to verify the earned income increase until the next AR.

QUESTION 123. How about teacher's income when you create an IR when they stop working will you create an IR when they go back to work?

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Answer: Most people do not calculate teachers' income correctly. Usually, teachers are paid an annual salary which will be used when you create the AR based on the prior year income (and considering any permanent change).

So, if a teacher worked August through April but did not work in May, June or July you would determine the total income for the year including the three months at $0. The Annual Income remains the same even though there is no income for three months. No IR would be submitted during the summer months because the 50059 reflects Annual Income from the job as a teacher.

With HOTMA, you are always considering the full 12 month certification cycle. In the example shown below, three months without the salary from Magnolia High School has already been factored in to the Annual Income amount. See the examples below.

Ariel's 8/1 AR	
Ariel Armstrong HOH	
Salary from Magnolia High School	$54,028
Seasonal Work as Summer Tutor	$4,200
Avery Armstrong - Minor 7	
Unearned Income	$0
Adam Armstrong - Minor 4	
Unearned Income	$0
Asher Armstrong - Minor 4	
Unearned Income	$0
Annual Income	$58,228
Dependent Deduction	$1,440
Childcare	$16,900
Annual Adjusted Income	$39,888
Monthly Adjusted Income	$3,324
TTP	$997

Ariel's Income History	
August Magnolia High	$6,003
Summer Tutor	$0
September Magnolia High	$6,003
Summer Tutor	$0
October Magnolia High	$6,003
Summer Tutor	$0
November Magnolia High	$6,003
Summer Tutor	$0
December Magnolia High	$6,003
Summer Tutor	$0
January Magnolia High	$6,003
Summer Tutor	$0
February Magnolia High	$6,003
Summer Tutor	$0
March Magnolia High	$6,003
Summer Tutor	$0
April Magnolia High	$6,003
Summer Tutor	$0
May Magnolia High	$0
Summer Tutor	$1,400
June Magnolia High	$0
Summer Tutor	$1,400
July Magnolia High	$0
Summer Tutor	$1,400

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If Ariel requested an IR in May because her income is now $0, the projection would still result in $39,888 as Annual Adjusted Income resulting in a 0% reduction and no requirement to create an AR.

Ariel's Request for IR			Ariel's Income History	
Ariel Armstrong HOH			**May Magnolia High**	$0
Salary from Magnolia High School	$54,028		Summer Tutor	$1,400
Seasonal Work as Summer Tutor	$4,200		June Magnolia High	$0
			Summer Tutor	$1,400
Avery Armstrong - Minor 7			July Magnolia High	$0
Unearned Income	$0		Summer Tutor	$1,400
			August Magnolia High	$6,003
Adam Armstrong - Minor 4			Summer Tutor	$0
Unearned Income	$0		September Magnolia High	$6,003
			Summer Tutor	$0
Asher Armstrong - Minor 4			October Magnolia High	$6,003
Unearned Income	$0		Summer Tutor	$0
			November Magnolia High	$6,003
Annual Income	$58,228		Summer Tutor	$0
			December Magnolia High	$6,003
Dependent Deduction	$1,440		Summer Tutor	$0
Childcare	$16,900		January Magnolia High	$6,003
			Summer Tutor	$0
Annual Adjusted Income	$39,888		February Magnolia High	$6,003
Monthly Adjusted Income	$3,324		Summer Tutor	$0
TTP	$997		March Magnolia High	$6,003
			Summer Tutor	$0
			April Magnolia High	$6,003
			Summer Tutor	$0

The income is the same.

QUESTION 124. If an IR, reducing earned income, has been submitted since the last AR, is the owner/agent allowed to consider new earned income increases?

Answer: Yes, if an IR, reducing income, has been submitted since the last AR, that would mean that Annual Adjusted Income was probably reduced. When that is the case, owner/agents may submit IRs increasing earned income as long as the increase resulted in an Annual Adjusted Income increase of 10% or more.

QUESTION 125. If an owner/agent has established a policy to ignore earned income increases until the next AR, would the owner/agent still submit an IR if another change created an increase to AAI of 10% or more?

Answer: Yes, an owner/agent is required to submit an IR when changes to unearned income or deductions creates an Annual Adjusted Income increase of 10% or more.

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QUESTION 126. If an owner/agent has established a policy to ignore earned income increases until the next AR, would the owner/agent always submit an IR for an unearned income increase regardless of percentage?

Answer: No. Owner/agents should not submit an IR for an Annual Adjusted Income increase that is less than 10%.

QUESTION 127. Is an owner/agent allowed to use 10% for Annual Adjusted Income increases but establish a threshold lower than 10% for Annual Adjusted Income decreases?

Answer: Yes. Owner/agents do not submit an IR if an Annual Adjusted Income increase is less than 10%. However, while HUD establishes a 10% threshold for Annual Adjusted Income decreases, owner/agents may establish a lower percentage for Annual Adjusted Income decreases. The policy must be applied consistently. The policy must also be described in your TSP.

QUESTION 128. This question is about excluding income that will not last until the end of the certification cycle. In GA, TANF is only provided for 48 months. If the resident's TANF will end 10 months after the effective date of the AR, is the TANF income included or excluded on the 50059.

Answer: In the 4th year, even if the TANF will end before the next AR, that income would be included.

HUD HSG Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) states that, *"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 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."*

QUESTION 129. Are owner/agents supposed to include student financial assistance (scholarship) if the student is the HOH?

Answer: Owner/agents will count the amount of student financial assistance that exceeds tuition and other covered fees unless:

1. The student is the HOH, co-HOH/spouse; and
2. The student is 24 or older; and
3. The student has a dependent child as defined by HUD.

Student financial assistance that exceeds tuition and other covered fees is included unless all three criteria are met.

QUESTION 130. Are owner/agents required to correct certifications after the COLA is announced?

Answer: The rule is that owner/agents must include the COLA for any incomplete certifications effective during the COLA year. For example:

- 2025 COLA is announced on October 23, 2024
- Owner/agent has adopted Streamlined Certification so all January 2025 certifications are complete (signed).
- Fifteen of the twenty-five Annual Recertifications that will be effective in February 2025 are complete (signed).
- Since all of the January 2025 certifications are complete, no corrections are required for January.
- No correction is required for the fifteen February 2025 ARs that are complete.
- For the ten remaining February 2025 ARs, the owner/agent is required to include the COLA when determining income from Social Security.

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Adding a COLA increase to fixed income is known as Streamlined Determination of Fixed Income.

To apply the verified COLA to a fixed source of income, owner/agents must first verify adjustment factors from either a public source or from tenant-provided, third party generated documentation.

For SS COLA, owner/agents may use EIV with the Social Security COLA FACT Sheet to document the current SS award amount and to document the actual COLA percentage. (See HSG Notice 2016-09)

To obtain the most current SS COLA Fact Sheet, use an internet search engine such as Google and type "SS XXXX COLA FACT Sheet" using the appropriate year instead of XXXX.

LEASES

QUESTION 131. Can everyone sign their new lease at their AR? Or do they all need to sign at the same time?

Answer: HUD appears to want the new leases in place as quickly as possible.

Owner/agents are required to issue Notices requiring residents to sign the new lease within no more than 30 days before the current lease ends or provide 30 Day Notice to Move. It appears as if owner/agents are not allowed to wait for AR (or IR) if the resident's lease is a Month-to-Month (MTM) lease.

Residents whose lease is a Month-to-Month lease (MTM) will need to accept the new lease after the 60 Day Notice has been issued.

If the resident current lease term is one year, and the lease end is not "pending", the owner/agent cannot compel the resident to accept the new lease until 30 days before the lease end date of the current lease.

The lease is a legally binding contract and owner/agents can't modify the lease (or compel residents to accept a new lease) until the end of the current lease term.

QUESTION 132. If a resident's initial lease term has been fulfilled and rolled to Month-to-Month, will they sign 60 days after the software update or at the next AR?

Answer: Per HUD's Notice, the owner/agent must provide notification for existing residents that they are required to sign the new lease. Historically, when the lease changes, HUD has allowed residents who have fulfilled their lease term to use a one month initial term when completing/executing the new lease.

Residents must sign the new lease no more than 30 days before the current lease ends after the 60 days. For example:

Example 1 – New Lease Effective Dates – Lease Renews for One Month

- ✧ Site software is updated 9/1/2024.
- ✧ The property policy is to have all leases end at the end of a month.
- ✧ Notice is sent 9/15/2024.
- ✧ 60 Days after 9/15/2024 is 11/14/2024.
- ✧ Because the initial lease term has been fulfilled and because this is now a MTM lease, the lease end date is 11/30/2024.

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For all residents in a Month-to-month lease, the lease ends at the end of every month. The change takes effect at the end of the lease after the 60 day notice.

The deadline to accept the lease or provide a 30 Day Notice of Intent to Vacate is 10/31/2024.

In this example, since all leases end on the last day of the month, all MTM resident's new lease will begin on **12/1/2024** and end on **12/31/2024**. The lease will continue for successive terms of **one month** each unless automatically terminated.

2. Length of Time (Term)	The initial term of this Agreement shall begin on **(F)**________ and end on **(G)** ________. After the initial term ends, the Agreement will continue for successive terms of one **(H)**________ each unless automatically terminated as permitted by paragraph 23 of this Agreement.

Example 2 – New Lease Effective Dates – Lease Renews for One Year

- Site software is updated 9/1/2024.
- The property policy is to have all leases end at the end of a month.
- Notice is sent 9/15/2024.
- 60 Days after 9/15/2024 is 11/14/2024.
- Because all leases are one year leases, residents whose lease ends on 11/30/2024 have 30 days to accept the lease or provide a Notice of Intent to Move at the end of the lease term.

The deadline to accept the lease or provide a 30 Day Notice of Intent to Vacate is 10/31/2024.

In this example, the resident's new lease will begin on **12/1/2024** and end on **11/30/2025**. The lease will continue for successive terms of **one year** each unless automatically terminated.

Example 3 – New Lease Effective Dates – Lease Renews for One Month

- Site software is updated 11/1/2024.
- The property does not have a policy to have all leases end at the end of a month.
- Notice is sent 11/15/2024.
- 60 Days after 11/15/2024 is 1/14/2025
- Because the initial lease term has been fulfilled and because this is now a MTM lease, the owner/agent can start replacing leases that end 1/14/2025 or later.

The change takes effect at the end of the lease after the 60 day notice.

The deadline to accept the lease or provide a 30 Day Notice of Intent to Vacate is 12/15/2024.

In this example, a MTM resident's new lease could begin on **1/15/2025** and end on **2/14/2025**. The lease will continue for successive terms of **one month** each unless automatically terminated.

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Example 4 – New Lease Effective Dates – Lease Renews for One Year

- Site software is updated 11/1/2024.
- The property **does not** have a policy to have all leases end at the end of a month.
- Notice is sent 11/15/2024.
- 60 Days after 11/15/2024 is 1/14/2025.
- Because all leases are one year leases, residents whose lease ends on 1/14/2025 have 30 days to accept the lease or provide a Notice of Intent to Move at the end of the lease term.

The deadline to accept the lease or provide a 30 Day Notice of Intent to Vacate is 12/15/2024.

In this example, the resident's new lease will begin on **1/15/2025** and end on **1/14/2026**. The lease will continue for successive terms of **one year** each unless automatically terminated.

QUESTION 133. Does HUD have a timeline for translating model leases in different languages?

Answer: As far as I know, HUD has not announced when alternative language leases will be available. We hope, in compliance with LEP requirements, they are published at the same time the English version of the lease is published.

QUESTION 134. Will HUD update the Cooperative Occupancy Agreement Addendum-Subsidized Programs?

Answer: Cooperative Agreements are created by the owner/agents and must comply with requirements established in Chapter 6 of HH 4350.3 Change 4. HUD does not provide Cooperative Agreements.

QUESTION 135. Do owner/agents have to send new Leases for HUD approval?

Answer: HUD will be providing new leases once they have been edited and approved. Do not modify the current lease to comply with HOTMA.

Once new leases are approved, they will be provided on HUD's form web site HUDClips.

QUESTION 136. When do owner/agents need to get the new lease signed after the recertification?

Answer: Once your site software is updated, you are required to send a 60 Day Notice regarding the new lease. Residents must either accept the lease no later than 30 days before their current lease ends (after the 60 Day Notice) or must provide a Notice to Vacate the Unit.

QUESTION 137. What happens if an owner/agent does not receive an executed lease or NTV from a resident?

Answer: If the resident does not respond to the 60 Day Notice and fails to provide an executed lease or a Notice to Vacate, then the owner/agent begins the process to evict which starts with a Notice of Termination of Tenancy.
Medical Expenses

MEDICAL EXPENSES

QUESTION 138. Can owner/agents use bank statements to verify debit card payments for medical expenses?

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Answer: Verification of Medical Expenses has not changed with HOTMA other than to change the verification hierarchy. Bank statements are not generally considered a reliable verification source for medical expenses. There is no way to tell if the payments are for the resident or for someone else.

However, bank statements can be paired with a specific bill from the medical service provider to demonstrate that payments are made.

QUESTION 139. OTC receipts can or cannot be used for out of pocket medical expenses?

Answer: There are three classifications of "over-the-counter" medical expenses and the verification requirements for each has been the same since 2008.

If a resident wishes to include Nutritional supplements, vitamins, herbal supplements, "natural medicines" or Non-prescription Medicine, the receipt is used to verify the expense as long as a medical professional has verified that the product is necessary to diagnose, prevent or treat a specific medical condition. Note, prior to HOTMA, the over-the-counter product had to be required to treat a specific medical condition.

For personal use items, HUD does not indicate that verification from a medical professional is required. See Handbook guidance from HH 4350.3 Change 4 Exhibit 5-3 below. Note, the guidance has been modified to include "diagnose" and "prevent".

Nutritional supplements, vitamins, herbal supplements, "natural medicines": *Do not include in medical expenses the cost of nutritional supplements, vitamins, herbal supplements, "natural medicines," etc., unless they are recommended in writing by a medical practitioner licensed in the locality where practicing. These items must be recommended to diagnose, prevent or treat a specific medical condition diagnosed by a physician or other health care provider licensed to make a diagnosis in the locality where practicing. Otherwise, these items are taken to maintain ordinary good health, and are not for medical care.*

Non-prescription Medicine: *Do not include in medical expenses nonprescription medicines unless they are recommended in writing by a medical practitioner licensed in the locality where practicing. These items must be recommended to diagnose, prevent or treat a specific medical condition diagnosed by a physician or other health care provider licensed to make a diagnosis in the locality where practicing.*

Personal Use Items: *Do not include in medical expenses an item ordinarily used for personal, living, or family purposes unless it is used primarily to prevent or alleviate a physical or mental defect or illness. For example, the cost of a wig purchased upon the advice of a physician for the mental health of a patient who has lost all of his or her hair from disease or incontinence supplies can be included with medical expenses.*

QUESTION 140. Do Over-the-Counter medications have to be "prescribed"?

Answer: I don't know if "prescribed" is the correct term. Owner/agents must verify that any over-the-counter product is used to diagnose, prevent or treat a specific medical condition. Under HIPAA you should not inquire about the nature of the illness. For example:

1. Resident takes iron supplements and provides receipts to the owner/agent.
2. Owner/agent completes verification asking if iron supplements are used to treat, diagnose or prevent a specific medical condition.
3. Physician's assistant provides verification that iron supplements are used to treat, diagnose or prevent a specific medical condition.
4. It is not required nor is it appropriate for the owner/agent to ask the verifier to identify the medical condition.

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Prior to HOTMA the requirement was that owner/agents must verify that an over-the-counter product is to treat a specific medical condition. Now, OTC products must be used to prevent, diagnose or treat a specific medical condition.

We have updated our FASTForm Verification Form (Verification Deduction Medical Over the Counter Products) to help with this verification.

Please note that this is different than guidance provided for "personal use item" such as incontinence supplies. Verification of the need for personal use items is not indicated in HH 4350.3 Exhibit 5-3.

QUESTION 141. Can the cost of the internet be included for someone who only uses it for telemedicine?

Answer: If the need can be verified, then yes. Owner/agents should *Encourage Participation in the Affordable Connectivity Program Among Families Receiving Federal Housing Assistance*.

QUESTION 142. When it comes to service animals can residents provide vets bills or medical treatment for the pet to use as part of their Health & Medical Expense Deduction?

Answer: Owner/agents should be very careful not to refer to an assistance animal (service animal, emotional support animal, therapy animal) as a pet. These animals are not pets but rather, are in the unit to address the symptoms or side effects of a resident's disability.

When the HOH, co-HOH/spouse is elderly or disabled and when an assistance animal lives in the unit, the resident should be advised that expenses related to the cost and upkeep of the assistance animal are allowed to be used as part of the Medical Expense Deduction.

TSP & EIV POLICY UPDATES

QUESTION 143. Is the deadline for updating the TSP and the EIV policy still 3/31/2024?

Answer: On 2/5/2024 HUD released HSG Notice 2024-04 changing the deadline from 3/31/2024 to 5/31/2024.

QUESTION 144. The Notice says that the TSP has to be publicly posted. Where should it be posted?

Answer: Previously, under MFH rules, the TSP had to be publicly available upon request. Generally, owner/agents who post the TSP, post it on any applicant portal, on property bulletin boards, in the management office, etc.

QUESTION 145. Has HUD provided a sample TSP or a sample EIV Policy?

Answer: No. HUD has never provided a sample TSP or sample EIV Policy.

We have developed and posted an EIV Policy Update Checklist and a TSP Update Checklist on our HOTMA Resources page. We also provide a TSP Template and an EIV Policy Template as part of our FASTForms offerings. TSP Templates can be purchased as a stand-along product or as part of a package. EIV Policy Templates can be purchased as a stand-alone product or as part of a package. If you want to view the forms that are part of the package, go to the FASTForms page. Click on FASTForms Packages then click on the Package name. A list of forms and form descriptions is provided.

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QUESTION 146. Do owner/agents need to notify residents when the TSP changes?

Answer: No. The TSP is an applicant document and owner/agents do not have to provide that document to existing residents. Section 8 applicants should be notified of changes to eligibility requirements, but it is not a requirement unless you add or remove a preference.

Many of the new TSP topics will also need to be added to the House Rules. The House Rules are an attachment to the lease. If you plan to update your House Rules to include HOTMA provisions, we suggest you provide the new House Rules to existing residents when you provide the new lease. That way, the new lease, the new VAWA Addendum and the new House Rules can be provided together at least 60 days before the new lease is effective.

However, owner/agents must notify existing residents of the changes that will impact their rent calculation and/or eligibility before creating the first certification impacted by HOTMA. Owner/agents may use the TSP to accomplish this notification, but, in our opinion, this is not the best method to use.

We have created HOTMA Fact Sheets (FACT Sheet – HOTMA Assets and FACT Sheet – HOTMA Deductions) to assist owner/agents when they are preparing documents to notify residents of the changes. These forms may be purchased individually or as part of the HOTMA FASTForms Package.

QUESTION 147. Should owner/agents post the new TSP before it is effective?

Answer: Yes. HUD requires that you update the TSP and make it publicly available no later than 5/31/2024. When you post this document, which you are not allowed to implement until site software is updated, please be sure to indicate (preferably in the footer) that the new TSP will take effect 1/1/2025. You can always change that date if you implement HOTMA earlier.

QUESTION 148. If an applicant asks for a TSP today, do owner/agents still provide the current TSP?

Answer: Yes. The TSP provided to a current applicant should reflect the criteria they are subject to today.

QUESTION 149. If the policies are updated already, is there any reason to delay implementation?

Answer: In HSG Notice 2023-10, HUD specifically says that owner/agents are not to implement the new TSP or new EIV Policy until site software is updated.

QUESTION 150. Are owner/agents required to mail the updated TSP to each applicant that is on the waiting list?

Answer: At this time, based on published HUD guidance in HH 4350.3 Change 4, HUD requires owner/agents to provide applicants with notification of the change to the TSP only if a preference is added or removed. Owner/agents should give applicants the option to request a new TSP either through the mail or electronically.

HUD does recommend that you advise residents if there is a major change. HUD recommends advising applicants that the TSP has changed and that they may request a new TSP (electronic or paper) or access the TSP from an automated portal (if applicable) or web site (if applicable)

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VERIFICATION

QUESTION 151. Can you explain the difference between *Upfront Income Verification (UIV) using EIV Level 6* and *EIV with Self-Certification Level 4b*? It seems to me the only difference is that #2 is specific to Social Security and #5 is specific to Employment and Unemployment. Is it correct that in both cases, if the tenant does not dispute EIV and signs something that states they agree, then that is all that is needed to verify income and no other steps need to be taken?

Answer: Our interpretation is that Up Front Income Verification (Level 6) is related specifically to Social Security and SSI income.
EIV with Self-Certification (Level 4b) is related to employment income and unemployment income. Since there is a delay between the time salaries are paid and the time the income appears on the EIV report, owner/agents must obtain tenant self-certification that the income reflected in EIV is still the current income.

QUESTION 152. The Work Number is listed as an example of *Upfront Income Verification (UIV) Level 5*. We do not subscribe to the paid Work Number service and do not use it. Is it a requirement to use as part of the hierarchy? If we choose not to, must that be specified in our TSP?

Answer: The Work Number is provided as an example of UIV that is not EIV. Owner/agents are not required to use the Work Number. HUD does not require owner/agents to list examples of UIV that are not EIV in the TSP.

QUESTION 153. Can you please explain the difference between *Written 3rd Party Verification from the source, also known as "tenant provided verification" Level 4a* and *Written Third Party Verification Form (as appropriate)*? I think it means for 4a that the verification will be something directly from the source, i.e. bank statement, current Social Security benefit letter, etc. Whereas a FORM (either self-created or purchased) that we provide to the third party. Do I have that correct?

Answer: *Written 3rd Party Verification From The Source* is a document generated by a third-party source and provided by the resident. For example, the resident could provide a bank statement, two current consecutive pay stubs, a letter verifying disability, etc. This is considered 3rd party verification because the 3rd party generated the document.

Written 3rd Party Form is when you create a verification form and either mail, fax or email the form to the verifier and the verifier returns the form to you.

QUESTION 154. Because SSI varies so greatly, if the resident disagrees with EIV in regard to projecting income, what is the best way to determine income?

Answer: If, you have a resident whose SSI changes intermittently throughout the year, owner/agents should develop methods to determine the most accurate income amount, If, at AR, the resident disagrees with the SSI income amounts reflected in EIV, the owner/agent may establish a policy to use an average income amount based on historical payments. As an example, owner/agents could establish a policy to determine the average SSI income amount based on the previous six transactions shown in EIV.

Alternatively, the owner/agent could average the payment amounts over the most recent six months, nine months or 12 months. The policy must be applied consistently to residents whose SSI changes multiple times throughout the year.

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QUESTION 155. Do owner/agents have to implement Streamlined Verification of Assets & Income from Assets when a residents Total Assets is $50,000 or less ***(amount subject to annual review and adjustment by HUD if necessary)*****?**

Answer: No. Use of Streamlined Verification of Assets & Income from Assets is optional.

If an owner/agent will use Streamlined Verification of Assets and will accept Self-certification of Assets & Income from Assets at Move-in, this must be described in your TSP.

CHECKING ACCOUNT CASH VALUE VERIFICATION – BANK STATEMENT

QUESTION 156. Can you confirm that HUD guidance only requires owner/agents to collect one bank statement when verifying checking account balances; owner/agents no longer have to collect six bank statements and derive an average balance?

Answer: Yes, that is true. HUD removed the requirement to collect the average six month balance for checking accounts. HUD requires that owner/agents use at minimum, one current bank statement and use the current balance as the cash value of the checking account.

Owner/agents may establish their own policies to require more bank statements as long as that policy is applied consistently.

QUESTION 157. If an owner/agent wants to establish a policy to request 3 months' work of checking account bank statements instead of a single current bank statement, do owner/agents have to be consistent with all residents? Also, does this have to be documented anywhere?

Answer: Policies must be applied consistently. If an owner/agent wishes to collect three current consecutive statements instead of one statement, an owner/agent may do so. When entering the cash value of the checking account, owner/agents who wish to collect multiple statements should use the balance on the most current statement.

HUD has never required owner/agents to specify what kind of verification is required however, the 120-Day Reminder Notice must advise residents of the documentation required to conduct Annual Recertification.

During the MOR, consistent application of any verification policy will be reviewed.

QUESTION 158. When calculating assets for RD, USDA requires owner/agents use the 6 month average balance for checking accounts. With the new HOTMA guidance it is the current balance of all financial accounts ... do you suggest using both in the calculations until RD officially accepts the guidance?

Answer: As always, when multiple federal agencies provide conflicting guidance, you use the most restrictive guidance to ensure compliance with all programs. This is referenced in the current HH 4350.3 Change 4 Paragraph 1-5.

We understand that USDA has published guidance indicating owner/agents may use the current balance from one bank statement when verifying the cash value of a checking account.

EMPLOYMENT VERIFICATION – PAY STUBS

QUESTION 159. Can you confirm that HUD guidance only requires owner/agents to collect two current consecutive pay stubs when verifying employment income?

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Answer: Yes, that is true. Owner/agents are required to obtain a minimum of two current, consecutive pay stubs for determining projected annual income from wages when they are relying on pay stubs for Level 4 documentation.

Owner/agents may establish their own policies to require more pay stubs as long as that policy is applied consistently.

Keep in mind that verification of employment income is not limited to pay stubs. Owner/agents may also use an employment offer letter, payroll history, 1099s, etc.

QUESTION 160. Are Reviewers allowed to issue findings if an owner/agent opts to collect more pay stubs?

Answer: HUD calls for a minimum of two pay stubs. There is no prohibition against collecting more pay stubs as long as the policy is applied consistently and does not violate any fair housing rules. In some cases, when there is layered funding, another program may require more pay stubs. When that is the case, owner/agents should reference HH 4350.3 Change 4, Paragraph 1-5 and apply the most restrictive requirement.

QUESTION 161. If an owner/agent collects two pay stubs to verify earned income, does HUD require the owner/agent to obtain verbal clarification regarding upcoming changes (raise or bonus in the next 12 months)?

Answer: For HUD's Multifamily Housing programs, owner/agents are not required to obtain phone clarification in addition to the pay stubs. When using pay stubs to verify earned income, two current, consecutive pay stubs are all that is required.

Other programs, such as LIHTC, may implement a different requirement. If there is LIHTC or other federal or state funding, the owner/agent should check with the agency monitoring the program to obtain clarification regarding verification requirements.

As noted in HH 4350.3 Change 4 Paragraph 1-5, if there is conflicting guidance, the owner/agent uses the most conservative option.

QUESTION 162. What if a state or federal program provider (LIHTC, USDA) requires two months' worth of pay stubs instead of two current, consecutive pay stubs?

Answer: As noted in HH 4350.3 Change 4 Paragraph 1-5, if there is conflicting guidance, the owner/agent uses the most conservative option; in this case, two months' worth of pay stubs. That would satisfy both agency's requirement.

QUESTION 163. Question: May an owner/agent accept Self-certification of employment income if the owner/agent cannot obtain 3rd party verification?

Answer: Self-certification is acceptable as long as the owner/agent has unsuccessfully attempted all other verification methods and the owner/agent documents the verification attempts in the tenant file.

It is suspicious, however, that a resident would be unable to provide two current consecutive pay stubs in a reasonable amount of time.

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If a resident REFUSES to provide required documentation necessary to complete recertification, assistance should be terminated unless there are:

1. Extenuating Circumstances;
2. The Need for a Reasonable Accommodation;
3. The Need for a VAWA Accommodation.

QUESTION 164. **Question: May an owner/agent accept Self-certification of termination of employment if the owner/agent cannot obtain 3rd party verification of term of employment after making attempt?**

Answer: Self-certification of termination of employment is acceptable as long as the owner/agent has unsuccessfully attempted all other verification methods and the owner/agent documents the verification attempts in the tenant file.

However, it is unlikely that a resident would be unable to obtain appropriate documentation from the former employer.

Since the verification of termination no longer comes directly from the employer, but rather from employer generated documents provided by the resident, it seems that the resident would be able to provide such documentation.

QUESTION 165. **When using EIV to verify employment income, if a resident disagrees with EIV because, at time of AR they are not working as a seasonal worker, and they state they do not plan to, what documentation do owner/agents need to get?**

Answer: If a resident disagrees with EIV, the resident would self-certify that he/she/they disagree with EIV and self-certify that he/she/they will not be receiving income from the source listed (or another like organization) in the upcoming year.

The owner/agent would verify termination of employment and that there are no plans for the resident to work for the employer in the upcoming year.

Means-tested Verification

QUESTION 166. **Is use of Means-tested verification optional?**

Answer: Owner/agents are not required to accept or use determinations of income from other federal means-tested forms of assistance. Owner/agents must establish in policy whether and when they will accept Means-tested Verification (Safe Harbor income determinations) and if Means-tested verification is accepted, whether the owner/agent will accept at AR only or at MI/IC and AR. The TSP must include which Safe Harbor programs will be accepted.

Owner/agents must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination).

These policies must be included in the PHA's/MFH Owner's ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

QUESTION 167. **If the owner/agent is using a 50059 from another property to conduct Means-tested verification at Move-in, does the owner/agent have to conduct verification of assets or do owner/agents just use the information on the 50059?**

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Answer: The individual assets would not be included on the MI 50059. The owner/agent will use Income Code *SH – Safe Harbor* which includes income from assets.

Keep in mind that, if this is a Section 8 property, you will need to ask about assets related to the Asset Restrictions (Asset Cap & Real Property Rule). If you have implemented Means-tested verification and you're using a 50059 from the other property, any assets are listed.

QUESTION 168. If an owner/agent uses a 50059, 50058 or TIC to determine income, what kind of verification is required for the tenant file?

Answer: The 50058, 50059 or TIC is the only documentation necessary as long as the 50058, 50059 or TIC:
1. States the family size;
2. Is 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 non-family members); and
3. States the amount of the family's annual income.

HUD clarifies that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt by the owner/agent. This satisfies all verification date requirements for Safe Harbor income determinations.

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/MFH Owner:
- 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.

No additional documentation related to income, assets or income from assets is required. Owner/agents are still required to verify eligibility for deductions and deduction amounts.

Keep in mind that owner/agents of Section 8 properties must ask questions related to the Asset Restrictions to make sure the applicant family is eligible.

QUESTION 169. When using Means-tested verification, if the resident provides a 50058 or 50059 with medical expenses, can the owner/agent use the 50058 or 50059 to verify the medical expense?

Answer: No. Based on the language in the Notice, Means-tested verification is used to verify Total Annual Income (Non-asset Income & Income from Assets). The Total Annual Income is entered as one entry on the 50059 using the new SH – Safe Harbor Income Code.

There has been no change to the verification of medical expenses. Owner/agent must still conduct verification of medical expenses each year. However, HUD has expanded the list of allowable medical expenses to more closely coincide with the IRS. HUD and the IRS are not exactly the same, so owner/agents should compile a list combining HUD rules and IRS rules.

RBD has compiled our own list based on our interpretation. Check out our FASTFACT.

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QUESTION 170. If an owner/agent chooses to implement Means-tested verification, may owner/agents determine which sources are acceptable? For example, if an owner/agent only wants to accept housing documents like a TIC, a 50059 or a 50058, but the owner/agent does not want to accept income determinations from TANF, SSI or WIC, may the owner/agent establish such a policy?

Answer: For owner/agents adopting Means-tested Verification, there does not appear to be any language prohibiting owner/agents from deciding to accept income determinations from selected federal sources.

QUESTION 171. If an owner/agent chooses to implement Means-tested verification, and the owner/agent only wants to accept housing documents like a TIC, a 50059 or a 50058, what does the owner/agent do if the 50059, 50058 indicates that Means-tested verification was used when determining Annual Income?

Answer: For owner/agents adopting Means-tested Verification, there does not appear to be any language providing guidance for this question. Owner/agents should decide what to do in this case.

My preference would be to verify the information, and not accept a 50059/50058 where income is recorded as SH Safe Harbor *(or whatever code ends up being used in the final MAT Guide)*.

QUESTION 172. Does the Means-tested verification have to come directly from the agency/provider or can it be brought in by the applicant/resident?

Answer: Since 2013, HUD has accepted resident-provided documents as third-party verification. See HH 4350.3 Paragraph 5-13. The industry has been slow to adopt this practice.

When reviewing HUD's new HOTMA verification hierarchy, described in HUD's HSG Notice 2023-10, HUD makes it clear that a document provided to a resident by the verifier can be used as third-party verification. The resident can provide such documentation to the owner/agent. The document does not have to come from the verifier directly.

QUESTION 173. How do you remove a household member's income due to moving out if you used Means-tested (Safe Harbor) for verification?

Answer: That is an excellent question and it is not addressed by HUD in the Notice. In this case, since the Means-tested verification must represent income for all family members, the Means-tested verification is no longer valid. We assume that the owner/agent would have to collect new verification of income and assets for the remaining members.

<u>Social Security (Fixed Income) Award/Benefit Letters</u>

QUESTION 174. At MI, when verifying Social Security income (or other federal benefits), does the award letter still need to be dated within 60-days of receipt?

Answer: For HUD's Multifamily Housing programs, with HOTMA, an award letter may be used for an entire award year. This applies to applicants and residents.

QUESTION 175. It was said that HUD is now going to allow us to use the yearly letter for Social Security and owner/agents no longer need to have an award letter dated within 120 days of certification. Where is this guidance provided and does this apply to applicants before move in?

Answer: Most of the HOTMA guidance can be found in the revised HSG Notice 2023-10. See page 123.

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For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

This rule applies to both applicants and residents.

QUESTION 176. If tenant provides the Social Security benefit letter as verification, do owner/agents still need the verification form with their signature on it to give release of the information?

Answer: No. A Verification Consent For Release Of SS Income Information is a document that the resident signs giving a third-party (SSA) permission to provide you with the resident's award letter or other information related to the SS benefit. If the resident provides you with a copy of their award letter, you do not need to obtain it from the SSA, so there is no need for the resident to sign a Verification Consent For Release Of SS Income Information.

QUESTION 177. If an owner/agent is using an award letter to verify Social Security or VA income and if the monthly amount shows a figure that includes dollars and cents, do owner/agents project annual income using the cents even when the true benefit does not include the cents?

Answer: Based on guidance provided by HUD in the 4350.3 Questions & Answers document, yes, you would include cents when projecting the income.

See Question 71 in HUD's Handbook Q&A

71. Question: When calculating SS income, owners/agents should use the gross amount. But, do owners/agents include the cents on SS payment amounts, although not received? For example, if the gross amount is $570.20, but the net is $570, do owners/agents calculate as $570.20 x 12?
Answer: When calculating Social Security income, use the gross amount shown on the third-party verification, including cents.

EIV PLUS SELF-CERTIFICATION

QUESTION 178. Does the certification page of the EIV Income Reports (last tab) suffice as self-certification?

Answer: While HUD does not specifically indicate that the Certification Page may be used, you could elect to use it to provide agreement/disagreement with EIV information. You just need to make sure that:

1. You have signed authorization to share one resident's information with other residents living in the same unit; and
2. You have all adult members sign the Certification to indicate whether each member's EIV income information is true or not.

HUD's Consent for EIV Disclosure can be found on HUD's web site at https://www.hud.gov/sites/documents/43503e9-4HSGH.PDF, as Exhibit 9-4 of HH 4350.3 Change 4 and on our EIV Resources page.

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