



RBDFASTFACTS ELIGIBILITY OF A REMAINING FAMILY MEMBER

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FASTFacts ELIGIBILITY OF A REMAINING FAMILY MEMBER

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Disclaimer

"The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in The Multifamily Housing industry. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and in December 2013 and subsequent notices and memos from HUD.

These materials were updated 11/2022.

The reader should understand that these materials are not designed for, nor should be relied upon, as a source of legal guidance or as a final authority with respect to any particular circumstance.

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Owners and management should seek competent legal advice in developing and carrying out housing policies and procedures.

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FASTFacts ELIGIBILITY OF A REMAINING FAMILY MEMBER

INTRODUCTION

This FASTFact was created to answer questions about what to do if the HOH, co-HOH or spouse leaves the unit for any reason, including death. Discussion includes Section 8 family properties, Section 8 elderly properties, 202/8, 202 PAC, 202 PRAC and 811 PRAC programs. We explain what to do when remaining members do not qualify for the 202/8, 202 PAC, 202 PRAC and 811 PRAC programs.

Guidance from HUD is provided in [HUD's TRACS 2.0.2.D MAT Guide](#) Chapter 5 and in [HH 4350.3](#) Paragraph 3-16 (Eligibility of a Remaining Family Member).

DETERMINING THE ELIGIBILITY OF REMAINING MEMBER(S)

Periodically, family composition changes after initial occupancy.

For all of HUD's Multifamily Housing programs, in order to be eligible to remain in the unit, the remaining member(s) of a household:

1. Must be living in the unit and a party to the lease when the family member leaves the unit; and
2. Must be of legal contract age under state law.

For the Section 8 Family properties and the Section 8 Elderly properties, these are the only requirements.

This is true for the Section 8 Elderly properties even if the HOH, co-HOH or spouse remaining in the unit is not elderly or disabled.

The owner/agent will create an Interim Recertification removing the member, the member's income and the member's deductions.

Remember that, if the family was previously considered elderly or disabled, and now no elderly or disabled members are the HOH, co-HOH or spouse, there is no Elderly/Disabled Family Deduction and no Medical Expense Deduction.

The remaining residents will pay rent based on the adjusted income of the remaining family members.

If the Tenant Rent increases, owner/agent is required to provide a 30-Day Notice of Rent Increase. The effective date of the IR is the first of the month after the 30-Day Notice.

Note: If the member being removed was the HOH, be sure to properly complete the "Previous HOH" fields on the 50059 when removing the qualifying member. See Appendix A of this FASTFact.

For Section 8 Elderly properties, in order for TRACS to accept the certification when the new HOH, co-HOH or spouse is not elderly or disabled, owner/agents must enter a Y in the Survivor of Qualifier? Field on the 50059. See Appendix B of this FASTFact.

Owner/agents must take steps to terminate tenancy if the remaining members:

1. Were not living in the unit and a party to the lease when the family member leaves the unit; and
2. Are not of legal contract age under state law.

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Example – Eligible Remaining Family Member Section 8 Senior Community

- ✧ Sandra Salazar (63) lives in Wisteria Trail a Section 8 Senior Community.
- ✧ Sandra lives in a 2-Bedroom unit with her sister Wendy Wilson (60).
- ✧ Both Sandra and Wendy are included on the lease and the 50059.
- ✧ In order to be eligible to live in Wisteria Trail, the HOH, co-HOH or spouse must be either 62 or older or disabled.
- ✧ In June, Sandra passes away.
- ✧ Even though Wendy is not yet 62, she is eligible as a remaining family member.
- ✧ Anita Place, the certification specialist for Wisteria Trail, will complete an Interim Recertification removing Sandra and making Wendy the HOH.
- ✧ Anita removes Sandra's income, the \$400 Elderly/Disabled Deduction and all medical expenses.
- ✧ In this example, the Tenant Rent decreases and is effective on July 1.
- ✧ Anita also advises Wendy that she has been added to the waiting list for a 1-Bedroom unit.

Example – Ineligible Remaining Family Member Section 8 Family Community

- ✧ Arlene Anderson (43) lives in Magnolia Gardens a Section 8 Family Community.
- ✧ Arlene lives in a 3-Bedroom unit with her daughter Aria (9) and her son Atlas (6).
- ✧ All three are included on the lease/50059.
- ✧ In August, Arlene passes away.
- ✧ Bill Ding, the property manager for Magnolia Gardens, is contacted by Arlene's sister Ava who has been granted custody of Arlene's children.
- ✧ Bill advises Ava that the family is no longer eligible to remain in the unit.
- ✧ This is because the remaining members are not of legal contract age under state law.
- ✧ The children may not remain in the unit.

Note: A person listed on the 50059 as a Live-in Aide has no rights to the unit as a remaining family member.

DETERMINING THE ELIGIBILITY OF REMAINING MEMBER(S) – 202/8, 202 PAC, 202 PRAC AND 811 PRAC

For 202/8, 202 PAC, 202 PRAC and 811 PRAC properties, when the qualifying member - HOH or co-HOH/spouse - no longer lives in the unit, regardless of the reason, owner/agents must determine whether the remaining member(s) living in the unit will be eligible to receive housing assistance.

Eligibility depends upon why the qualifying member no longer lives in the unit and the type of HUD contract.

As with the Section 8 programs, in order to be eligible to remain in the unit, the remaining member(s) of a household:

1. Must be living in the unit and a party to the lease when the family member leaves the unit; and
2. Must be of legal contract age under state law.

Note: A person listed on the 50059 as a Live-in Aide has no rights to the unit as a remaining family member.

The owner/agent need only create an Interim Recertification removing the member if the HOH or co-HOH/spouse remaining in the unit is qualified/eligible based on:

- ✧ The fact they were a part of the lease before the qualifier left; and
- ✧ Legal ability to enter in to a lease; and
- ✧ Age; or
- ✧ Disability (Based on the program definition)

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Example – Eligible Remaining Family Member Section 202/8 Senior Community

- ✧ Josh Jenkins (63) lives in Jasmine Estates a Section 202/8 Senior Community.
- ✧ Josh lives in an accessible unit with his sister Jennifer (59) who is disabled and requires the features of an accessible unit.
- ✧ Jennifer is listed on the 50059 as an Other Adult so that the family may take advantage of the \$480 Dependent Deduction.
- ✧ Both Josh and Jennifer are included on the lease and the 50059.
- ✧ In order to be eligible to live in Wisteria Trail, the HOH, co-HOH or spouse must be either 62 or older or non—elderly disabled requiring the features of an accessible unit.
- ✧ In April, Josh gets married and moves, with his new wife, to another unit in Jasmine Estates.
- ✧ Even though Jennifer is not yet 62, she is eligible as a remaining family member because she is disabled requiring the features of an accessible unit.
- ✧ Paige Turner, the certification specialist for Jasmine Estates, will complete an Interim Recertification removing Josh and making Jennifer the HOH.
- ✧ Paige removes Josh's income, and Josh's medical expenses.
- ✧ Jennifer's income and medical expenses will still be included on the new 50059.
- ✧ Because Jennifer is now the HOH, she no longer qualifies as a Dependent so Paige will remove the \$480 Dependent Deduction.
- ✧ In this example, the Tenant Rent increases and is effective on June 1.
- ✧ Paige also advises Jennifer that she has been added to the waiting list for a 1-Bedroom accessible unit.

DETERMINING THE ELIGIBILITY OF A REMAINING MEMBER WHEN THE QUALIFIER DIES AND NO REMAINING MEMBER IS ELDERLY OR DISABLED 202/8, 202 PAC, 202 PRAC AND 811 PRAC

If the qualifier (HOH, co-HOH or spouse who was 62 or older or disabled) **died** the remaining family member(s) is eligible to remain in the unit even if no one remaining in the unit is 62 or disabled. Because the qualifier died, eligibility of the remaining family member, as defined by the death of the family member, is not reviewed.

The owner/agent will create an Interim Recertification removing the member, the member's income and the member's deductions.

Remember that, if the family was previously considered elderly or disabled, and now no elderly or disabled member(s) is the HOH, co-HOH/spouse, there is no Elderly/Disabled Family Deduction and no Medical Expense Deduction.

The remaining member(s) will pay rent based on the new Adjusted Income.

If the Tenant Rent increases, the family owner/agent is required to provide a 30-Day Notice of Rent Increase. The effective date of the IR is the first of the month after the 30-Day Notice.

Note: If the member being removed was the HOH, be sure to properly complete the "Previous HOH" fields on the 50059 when removing the qualifying member. See Appendix A of this FASTFact.

In order for TRACS to accept the certification, when no family member is elderly or disabled, owner/agents must enter a Y in the Survivor of Qualifier? Field on the 50059. See Appendix B of this FASTFact.

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Example – Eligible Remaining Family Member 202 PRAC Senior Community

- ✧ Brian Bankowski (67) lives in Lilly Lake a 202 PRAC Senior Community.
- ✧ Brian lives in a 1-Bedroom unit with his girlfriend Inga Ivanov (57).
- ✧ Both Brian and Inga are included on the lease and the 50059.
- ✧ In order to be eligible to live in Lilly Lake, the HOH, co-HOH or spouse must be 62 or older.
- ✧ In September, Brian passes away.
- ✧ Even though Inga is not yet 62, she is eligible as a remaining family member because Brian passed away.
- ✧ Anne Teke, the certification specialist for Lilly Lake, will complete an Interim Recertification removing Brian and making Inga the HOH.
- ✧ Anne removes Brian's income, the \$400 Elderly/Disabled Deduction and all medical expenses.
- ✧ In this example, the Tenant Rent increases and is effective on November 1.

Determining the Eligibility of a Remaining Member When the Qualifier Leaves for a Reason Other Than Death and No Remaining Member is Elderly or Disabled 202/8, 202 PAC

If the qualifier leaves for any reason other than death (e.g., divorce, assisted living, etc.) the owner/agent must determine if the members still living in the unit meet the eligibility requirements for the project (income and age or disability).

For the 202/8 and 202 PAC Programs, if the remaining member(s) is not eligible, he/she may not receive rental assistance. The remaining member(s) may continue to live in the unit, but he/she would be required to pay Contract Rent.

Owner/agents complete 30 Day Notice of Termination of Assistance in accordance with guidance provided in HH 4350.3 Chapter 8. The owner/agent will also create a Termination 50059A and submit the termination to HUD/TRACS.

Determining the Eligibility of a Remaining Member When the Qualifier Leaves for a Reason Other Than Death and No Remaining Member is Elderly or Disabled 202 PRAC and 811 PRAC

If the qualifier leaves for any reason other than death (e.g., divorce, assisted living, etc.) the owner/agent must determine if the member(s) still living in the unit meets the eligibility requirements for the project (income and age or disability).

For the 202 PRAC and the 811 PRAC programs, if the HOH, co-HOH/spouse is not eligible, the remaining member(s) may not remain in the unit.

Remember, there is no Termination of Assistance in the PRAC program. The owner/agent must provide a Notice of Termination of Tenancy as required in HH 4350.3 Chapter 8.

VAWA CONSIDERATIONS

The Violence Against Women Act establishes a reasonable time period for remaining family member(s) to demonstrate eligibility for housing assistance or find alternative housing following lease bifurcation (eviction of the alleged abuser).

Special consideration should be taken when assistance was provided to the alleged perpetrator and the victim is a remaining member who is not eligible for housing assistance. Some examples include, but are not limited to a remaining member who:

- ✧ Has not contended eligible immigration status under the Noncitizen Rule; or

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- ✧ Did not otherwise meet the program eligibility requirements (e.g., a remaining family member under the age of 62 in an elderly property).

In most cases, the owner/agent shall provide a period of 90- calendar days from the date of lease bifurcation to:

- ✧ Establish eligibility for the same housing program that provided assistance to the evicted or terminated tenant;
- ✧ Establish eligibility under another covered housing program, or
- ✧ Find alternative housing.

The 90-calendar day “grace” period will not be available to a remaining household member if the statutory requirements for the program prohibit it.

In addition, the 90-calendar day period will not apply beyond the expiration of a lease, unless this is permitted by program regulations.

Owner/agents must complete an IR (or AR depending on the timing) for the remaining family members at the same time the alleged abuser is removed from the unit/lease.

The effective date of the IR must be in accordance with HH 4350.3 Paragraph 7-13.

The owner/agent must ensure the family is provided the proper notice of any rent change in accordance with HUD Handbook 4350.3 and/or local and state laws.

For additional information about VAWA Protections for residents living in a property funded through one of HUD’s Multifamily Housing programs, see [HSG Notice 2017-05 Violence Against Women Act \(VAWA\) Reauthorization Act of 2013 – Additional Guidance for Multifamily Owners and Management Agents](#) or any subsequent Notice.

LEASE REQUIREMENTS

HUD does not provide guidance about how the lease should be modified when a member leaves for any reason.

One option is to create a lease addendum that can be used to remove a member. Any lease addendum must be submitted to HUD for approval before implementation.

Another option is to terminate the lease for a non-adverse action and issue a new lease including only the names of the remaining family members.

Compliance teams should work with legal counsel when developing and implementing any leasing policy.

SUMMARY

This RBD FASTFact explains how to determine if remaining family members qualify to remain in a unit when the qualifying HOH, co-HOH/spouse leaves for any reason including death.

Students should now understand how to address continued eligibility of remaining family members in family properties. They should also understand how to determine eligibility when the HOH, co-HOH or spouse must be elderly or disabled to qualify for HUD housing assistance.

If the remaining member is a victim of a VAWA crime, students should understand the VAWA protections available to the remaining member.

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APPENDIX A: 50059 – COMPLETED PREVIOUS HOH FIELDS

Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures				U. S. Department of Housing And Urban Development Office of Housing Federal Housing Commissioner				For Personal Records ONLY - not for Submission to the Federal Government Record for Landlords (Exp. 06/30/2017)								
Section B. Summary Information																
1. Project Name Magnolia Gardens				12. Effective Date 8/1/2023				21. Unit Number 801A								
2. Subsidy Type 1 Section 8				13. Anticipated Voucher Date 8/1/2023				22. No. of Bedrooms 2								
3. Secondary Subsidy Type				14. Next Recertification Date 3/1/2024				23. Building ID								
4. Property ID				15. Project Move-In Date 3/27/2017				24. Unit Transfer Code								
5. Project Number 800000001111				16. Certification Type IR				25. Previous Unit No. 250								
6. Contract Number GA11RD11111				17. Action Processed				26. Security Deposit								
7. Project iMAX ID TRACM1234				18. Correction Type				27. 236 Basic/BMIR Rent								
8. Plan of Action Code				19. EIV Indicator Y				28. Market Rent								
9. HUD-Owned Project?				20. Prev. Subsidy Type				29. Contract Rent 780								
10. Previous Housing Code								30. Utility Allowance								
11. Displacement Status Code								31. Gross Rent 780								
								32. TTP at RAD Conversion								
Section C. Household Information																
33. No.	34. Last Name	35. First Name	36. MI	37. Rel.	38. Sex	39. Race	40. Eth	41. Birth Date	42. Special Status	43. Stdnt Stat.	44. ID Code (SSN)	45. SSN Excp	46. Ctzn Code	47. Alien Reg. Number	48. Age	49. Work Codes
01	King	Konnie		1	F	W	1	1/15/1940	E		111-11-1111				83	
02																
03																
04																
05																
06																
07																
08																
50. Family has Mobility Disability?				53. Number of Family Members 1				57. Expected Family Addition - Adoption 0								
52. Family has Visual Disability?				54. Number of Non-Family Members 0				59. Expected Family Addition - Foster Children 0								
55. Number of Dependents 0				56. Number of Eligible Members 1												
60. Previous Head Last Name King				63. Active Full Cert. Effective Date 3/1/2023												
61. Previous Head First Name Karl				64. Previous Head ID 100-00-0000												
62. Previous Head Middle Initial				65. Previous Head Birth Date 6/23/1939												
Section D. Income Information								Section E. Asset Information								
66. Mbr. No.	67. Income Type Code	68. Amount	69. SSN Benefits Claim No.	70. Mbr. No.	71. Description	72. Status	73. Cash Value	74. Actual Yearly Income	75. Date Divested							
1	SS	15000		1	Checking Account	C	3500	35								
				1	Annuity	C	0	18000								
70. Total Employment Income 0			81. Total Cash Value of Assets 3500													
71. Total Pension Income 0			82. Actual Income from Assets 18035													
72. Total Public Assistance Income 15000			83. HUD Passbook Rate .06													
73. Total Other Income			84. Imputed Income from Assets 2													
74. Total Non-Asset Income 15000			85. Asset Income 18035													
Section F. Allowances & Rent Calculations																
86. Total Annual Income 33035		97. Deduction for Dependents 0		108. Total Tenant Payment 700												
87. Low Income Limit 32000		98. Child Care Expense (work) 0		109. TTP Before Override												
88. Very Low Income Limit 30000		99. Child Care Expense (school) 0		110. Tenant Rent 700												
89. Extremely Low Income Limit 27000		100. 3% of Income 991		111. Utility Reimbursement 0												
90. Current Income Status		101. Disability Expense 0		112. Assistance Payment 80												
91. Eligibility Universe Code 3		102. Disability Deduction 0		113. Welfare Rent												
92. Sec. 8 Assist. 1984 Indicator N		103. Medical Expense 5620		114. Rent Override												
93. Income Exception Code		104. Medical Deduction 4629		115. Hardship Exemption												
94. Police / Security Tenant?		105. Elderly Family Deduction 400		116. Waiver Type Code												
95. Survivor of Qualifier?		106. Total Deductions 5029		117. Eligibility Check Not Required												
96. Household Citizenship Eligibility XX		107. Adjusted Annual Income 28006		118. Extenuating Circumstances Code												

Previous versions of this form are obsolete.
This form also replaces HUD-50059-D, -E, -F, & -G.

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form HUD-50059 (06/2014)
ref. HB 4350.3 Rev. 1

In many cases, site software will automatically complete the “Previous Head” fields for you.

If your site software does not complete these fields and you have questions about data entry, refer to the TRACS 202D 50059 Instructions available on the RBD [TRACS Resources page](#).

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APPENDIX B: 50059 COMPLETED SURVIVOR OF QUALIFIER FIELD

Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures				U. S. Department of Housing And Urban Development Office of Housing Federal Housing Commissioner				For Personal Records ONLY - not for Submission to the Federal Government Record for Landlords (Exp. 06/30/2017)								
Section B. Summary Information																
1. Project Name Magnolia Gardens				12. Effective Date 6/1/2023				21. Unit Number 801A								
2. Subsidy Type 7 202 PRAC				13. Anticipated Voucher Date 6/1/2023				22. No. of Bedrooms 1								
3. Secondary Subsidy Type				14. Next Recertification Date 2/1/2024				23. Building ID								
4. Property ID				15. Project Move-In Date 2/27/2017				24. Unit Transfer Code								
5. Project Number 800000001111								25. Previous Unit No.								
6. Contract Number GA11RD11111				16. Certification Type IR				26. Security Deposit 250								
7. Project iMAX ID TRACM1234				17. Action Processed				27. 236 Basic/BMIR Rent								
8. Plan of Action Code				18. Correction Type				28. Market Rent 680								
9. HUD-Owned Project?				19. EIV Indicator Y				29. Contract Rent								
10. Previous Housing Code				20. Prev. Subsidy Type				30. Utility Allowance								
11. Displacement Status Code								31. Gross Rent 680								
								32. TTP at RAD Conversion								
Section C. Household Information																
33. No.	34. Last Name	35. First Name	36. MI	37. Rel.	38. Sex	39. Race	40. Eth	41. Birth Date	42. Special Status	43. Stdnt Stat.	44. ID Code (SSN)	45. SSN Excp	46. Ctnz Code	47. Alien Reg. Number	48. Age	49. Work Codes
01	Trevoli	Tina		1	F	W	1	2/15/1963	E		111-11-1111				60	
02																
03																
04																
05																
06																
07																
08																
50. Family has Mobility Disability?				53. Number of Family Members 1				57. Expected Family Addition - Adoption 0								
51. Family has Hearing Disability?				54. Number of Non-Family Members 0				58. Expected Family Addition - Pregnancy 0								
52. Family has Visual Disability?				55. Number of Dependents 0				59. Expected Family Addition - Foster Children 0								
56. Number of Eligible Members 1																
60. Previous Head Last Name Trevoli				63. Active Full Cert. Effective Date 3/1/2023												
61. Previous Head First Name Trent				64. Previous Head ID 100-00-0000												
62. Previous Head Middle Initial				65. Previous Head Birth Date 7/1/1959												
Section D. Income Information								Section E. Asset Information								
66. Mbr. No.	67. Income Type Code	68. Amount	69. SSN Benefits Claim No.	75. Mbr. No.	76. Description	77. Status	78. Cash Value	79. Actual Yearly Income	80. Date Divested							
1	SS	15000		1	Checking Account	C	3500	35								
				1	Annuity	C	0	18000								
70. Total Employment Income 0				81. Total Cash Value of Assets 3500												
71. Total Pension Income 0				82. Actual Income from Assets 18035												
72. Total Public Assistance Income 15000				83. HUD Passbook Rate .06												
73. Total Other Income				84. Imputed Income from Assets 2												
74. Total Non-Asset Income 15000				85. Asset Income 18035												
Section F. Allowances & Rent Calculations																
86. Total Annual Income 33035		87. Low Income Limit 32000		88. Very Low Income Limit 30000		89. Extremely Low Income Limit 27000		90. Current Income Status								
91. Eligibility Universe Code 3		92. Sec. 8 Assist. 1984 Indicator N		93. Income Exception Code		94. Police / Security Tenant?		95. Survivor of Qualifier?								
96. Household Citizenship Eligibility XX		97. Deduction for Dependents 0		98. Child Care Expense (work) 0		99. Child Care Expense (school) 0		100. 3% of Income 991								
		101. Disability Expense 0		102. Disability Deduction 0		103. Medical Expense 5620		104. Medical Deduction 4629								
		105. Elderly Family Deduction 400		106. Total Deductions 5029		107. Adjusted Annual Income 28006		108. Total Tenant Payment 700								
								109. TTP Before Override 700								
								110. Tenant Rent 700								
								111. Utility Reimbursement 0								
								112. Assistance Payment -20								
								113. Welfare Rent								
								114. Rent Override								
								115. Hardship Exemption								
								116. Waiver Type Code								
								117. Eligibility Check Not Required								
								118. Extenuating Circumstances Code								

Previous versions of this form are obsolete.

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form HUD-50059 (06/2014)
ref. HB 4350.3 Rev. 1