

# FASTFacts The HOTMA Childcare Hardship Exemption



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Business Development, Inc.

# FASTFacts – The HOTMA Childcare Hardship Exemption

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*Owner/agents are not required to have a written Hardship Exemption Policy but it is strongly recommended.*

*The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in HUD’s multi-family housing program. Handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in 2013, HSG Notice 2023-10 and subsequent notices and resources provided on HUD’s MFH HOTMA web page. RBD makes no warranty to the usability, compliance or legality of this document.*

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*This FASTFact was created using information available as of 2/2025.*

# FASTFacts – The HOTMA Childcare Hardship Exemption

## **HOTMA IMPLEMENTATION**

The Housing Opportunity Through Modernization Act (HOTMA) changes many of the deductions for HUD's Multifamily Housing programs.

One such change is to allow for a Childcare Expense Deduction even when no family member is working, seeking work or attending school. Owner/agents should develop comprehensive policies explaining when a resident would qualify for a Childcare Hardship Exemption.

**Owner/agents should not implement the Childcare Hardship Exemption until HOTMA compliant site software is available and implemented.**

## **THE CHILDCARE DEDUCTION**

Anticipated expenses for the care of children under age 13 may be deducted from Annual Income if **all** of the following are true:

- ✧ The care is necessary to enable a family member to work, seek employment, or further his/her education (academic or vocational);
- ✧ The family has determined there is no adult family member capable of providing care during the hours care is needed;
- ✧ The expenses are not paid to a family member living in the unit;
- ✧ The amount deducted reflects reasonable charges for childcare;
- ✧ The expense is not reimbursed by an agency or individual outside the family;

When the Childcare Expense is to enable a member to work, the amount of the Childcare Expense must not exceed the amount of **earned income** received by the person who is able to work.

## **CHILDCARE HARDSHIP EXEMPTION FOR CHILDCARE EXPENSE DEDUCTION**

If a family is currently receiving a Childcare Expense Deduction, and the family's situation changes in such a way as the family is no longer qualified for the Childcare Expense Deduction, a family may request a Childcare Hardship Exemption to continue to include the Childcare Expense Deduction even when there is no member who is working, seeking work, and/or attending school.

The family must already be receiving the Childcare Expense Deduction in order for the family to qualify for the Childcare Hardship Exemption. There is no Childcare Hardship Exemption for a new childcare expense.

Examples of reasons to request a Childcare Hardship Exemption include, but are not limited to:

- ✧ No member is able to provide child care while the parent/guardian is seeking medical treatment;
- ✧ No member is able to provide child care while the parent/guardian is on temporary (short term) disability;
- ✧ No member is able to provide child care while the parent/guardian is taking advantage of the Family Medical Leave Act (FMLA).

The owner/agent may continue to include the Childcare Expense Deduction if the family demonstrates that the family would be unable to pay their rent because of loss of the Childcare Deduction and the childcare expense is still necessary even though no family member is employed, seeking work or attending school.

By regulation, if a Childcare Hardship Exemption is granted, the Childcare Hardship Exemption ends at the earliest of:

1. 90 Days; or
2. Such time the responsible entity determines the need for the childcare expense no longer exists when no adult family member is employed or furthering their education; or
3. Such time the responsible entity determines that family is able to pay their rent without the Childcare Hardship Exemption;
4. If assistance is terminated.

## FASTFacts – The HOTMA Childcare Hardship Exemption

Owner/agents, at their discretion, may extend the Childcare Hardship Exemption for additional 90-day periods based on family circumstances.

The Hardship Exemption may be extended for an unlimited number of times based on the owner/agent’s policies which must be described in the TSP.

Usually, the start of a Childcare Hardship Exemption coincides with an IR created to remove employment. This could also be included on an AR depending on the timing. If no member is working, seeking work or attending school, the Childcare Expense that was deemed necessary is also removed.

When granting a Childcare Hardship Exemption, the family would have to demonstrate that the care is still necessary even though no member is working, seeking work or attending school.

### Example Granting and Terminating a Childcare Hardship Exemption

- ❖ Jonas Jones works and sends his son Josiah to childcare five days a week (\$175 per week).
- ❖ In May, Jonas is involved in an automobile accident and is injured to the point that he must apply for unpaid short-term disability leave for five to six months.
- ❖ He continues to receive income because he has Short-term Disability Insurance that pays \$466 per week for a maximum of five months. Jonas provides a printout of his claims approval and provides it to the owner/agent for verification.
- ❖ Because this income will end before the end of the certification cycle, the owner/agent does not count this income when determining Non-asset Income.
- ❖ Jonas also discloses that his mother will be providing \$1000 per month to help offset everyday expenses. This income is included when determining Jonas’s Non-asset income.
- ❖ Part of Jonas’ treatment includes extensive rehab which means he is at the hospital five days per week for rehab.
- ❖ Jonas requests an Interim Recertification to reflect his loss of employment income. At the same time, because of the decrease to income and because of the cost of childcare, Jonas requests a Childcare Hardship Exemption.
- ❖ The owner/agent completes analysis of Jonas’ financial situation as it relates to his Assistance Payment.

Jonas and Josiah Jones		Jonas and Josiah Jones IR Request		Jonas and Josiah Jones Childcare Hardship Exemption Approval	
AR is 4/1/2025				IR Effective 6/1/2025	
Jonas's Income	\$36,000	Jonas's Income	\$12,000	Jonas's Income	\$12,000
Jonas's Income from Assets	\$125	Jonas's Income from Assets	\$125	Jonas's Income from Assets	\$125
Jonas's Annual Income	\$36,125	Jonas's Annual Income	\$12,125	Jonas's Annual Income	\$12,125
Childcare Expense Deduction	\$9,100	Childcare Expense Deduction	\$0	Childcare Expense Deduction	\$9,100
Dependent Deduction	\$480	Dependent Deduction	\$480	Dependent Deduction	\$480
Annual Adjusted Income	\$26,545	Annual Adjusted Income	\$11,645	Annual Adjusted Income	\$2,545
Monthly Adjusted Income	\$2,212	Monthly Adjusted Income	\$970	Monthly Adjusted Income	\$212
<b>TTP</b>	<b>\$664</b>	<b>TTP</b>	<b>\$291</b>	<b>TTP</b>	<b>\$64</b>
		AAI Variance \$	\$14,900		
		AAI Variance %	56.13		

## FASTFacts – The HOTMA Childcare Hardship Exemption

- ✧ Even though Jonas is not qualified for a Health & Medical Expense Deduction, the owner/agent also inquires about any new medical expenses Jonas may be required to pay. Jonas discloses that his out-of-pocket expenses for rehab are expected to be \$100 per week.
- ✧ The owner/agent creates an IR and sends Jonas a Notice stating:
  - The Childcare Hardship Exemption is granted and will end July 31; and
  - His new rent, effective 6/1 will be \$64; and
  - All adult members must report to sign the IR 50059 so that it may be submitted to HUD.
- ✧ The owner/agent has a policy to review all Hardship Exemptions in January, April, July and October. *(Note: This is optional. Owner/agents develop their own policies related to review of Hardship Exemptions.)*
- ✧ On July 15, Jonas participates in a meeting with the owner/agent and discloses that nothing has changed. The Childcare Hardship Exemption is extended until October 31.
- ✧ The appropriate certification is sent to HUD to continue the Hardship Exemption.
- ✧ On October 10, Jonas participates in another meeting and discloses that his mother is moving to town at the end of the month to live with her sister and help care for Josiah. Josiah will no longer attend day care.
- ✧ The owner/agent conducts analysis to determine whether an IR or a Non-Interim is necessary to stop the Childcare Hardship Exemption.

Jonas and Josiah Jones Childcare Hardship		Jonas and Josiah Jones Stop Childcare Hardship	
IR is 6/1/2025		IR Effective 12/1/2025	
Jonas's Income	\$12,000	Jonas's Income	\$12,000
Jonas's Income from Assets	\$125	Jonas's Income from Assets	\$125
Jonas's Annual Income	\$12,125	Jonas's Annual Income	\$12,125
Childcare Expense Deduction	\$9,100	Childcare Expense Deduction	\$0
Dependent Deduction	\$480	Dependent Deduction	\$480
Annual Adjusted Income	\$2,545	Annual Adjusted Income	\$11,645
Monthly Adjusted Income	\$212	Monthly Adjusted Income	\$970
TTP	\$64	TTP	\$291
		AAI Variance \$	\$9100
		AAI Variance %	357.56

It is determined that the change represents an Annual Adjusted Income increase that exceeds 10%, so an IR is required.

On October 15, the owner/agent completes the IR and sends a Notice to Jonas explaining that:

1. He is no longer qualified for the Childcare Hardship Exemption as of November 1, 2025; and
2. His rent will increase to \$291 starting December 1, 2025 (first of the month after the 30 day Notice); and
3. All adult family members must report to sign the IR 50059 so that it may be submitted to HUD.

Notes: \_\_\_\_\_

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## FASTFacts – The HOTMA Childcare Hardship Exemption

Owner/agents are required to develop a Hardship Exemption Policy to indicate when a resident is eligible for a Childcare Hardship Exemption.

[See RBD FASTForms Policy Hardship Exemption.](#)

Development of such a policy is not complete without supporting forms. The RBD [HOTMA FASTForms Package](#) includes:

- ✧ Hardship Exemption Request;
- ✧ Notice Hardship Exemption Request for Additional Information;
- ✧ Notice Hardship Exemption Approval;
- ✧ Notice Hardship Exemption Denial;
- ✧ Notice Hardship Exemption Appeal Decision;
- ✧ Notice Hardship Exemption End.