

**Low Income Public Housing (LIPH)  
Admission and Continued Occupancy Policy (ACOP)  
Proposed Changes for 2023-2024  
Revised as of 11/1/24**

Page	Section	Change
2-5	<p>Discrimination Complaints</p> <p>If an applicant or tenant family believes that any family member has been discriminated against by the PHA, the family should advise the PHA. The PHA should make every reasonable attempt to determine whether the applicant or tenant family’s assertions have merit and take any warranted corrective action.</p> <p>In all cases, the PHA may advise the family to file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.</p> <p>Upon receipt of a housing discrimination complaint, the PHA is required to:</p> <ul style="list-style-type: none"> <li>• Provide written notice of the complaint to those alleged and inform the complainant that such notice was made</li> <li>• Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted</li> <li>• Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20]</li> </ul> <p><u>MHA Policy</u></p> <p>Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the MHA either orally or in writing.</p> <p>Within 10 business days of receiving the complaint, the MHA will provide a written notice to those alleged to have violated the rule. The MHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on</p>	<p><b>Add title: <u>2-I.C. DISCRIMINATION COMPLIANTS</u></b></p> <p><b>(Revised) <u>General Housing Discrimination Complaints</u></b></p> <p>If an applicant or tenant family believes that any family member has been discriminated against by the PHA, the family should advise the PHA. The PHA should make every reasonable attempt to determine whether the applicant or tenant family’s assertions have merit and take any warranted corrective action.</p> <p><b>(Revised)</b>In all cases, the PHA <u>will</u> advise the family <b>that they may</b> file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.</p> <p><u>MHA Policy (Revised)</u></p> <p>Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the MHA either orally or in writing.</p> <p>Within 10 business days of receiving the complaint, the MHA will <b>investigate and</b> attempt to remedy discrimination complaints made against the MHA. <b>The MHA will also advise the family of their right to file a fair housing complaint with HUD’s Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in MHA lobbies, will reference how to file a complaint with FHEO.</b></p>

	<p>how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).</p> <p>The MHA will attempt to remedy discrimination complaints made against the MHA and will conduct an investigation into all allegations of discrimination.</p> <p>Within 10 business days following the conclusion of the MHA's investigation, the MHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.</p> <p>The MHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)</p>	
2-6		<p><u><b>New Section: Complaints under the Equal Access Final Rule [Notice PIH 2014-20]</b></u></p> <p><u><b>Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed of these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.</b></u></p> <p><u><b>MHA Policy</b></u></p> <p><u><b>Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the MHA either orally or in writing.</b></u></p> <p><u><b>Within 10 business days of receiving the complaint, the MHA will provide a written notice to those alleged to have violated the rule. The MHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).</b></u></p>

		<p><u>The MHA will attempt to remedy discrimination complaints made against the MHA and will conduct an investigation into all allegations of discrimination.</u></p> <p><u>Within 10 business days following the conclusion of the MHA's investigation, the MHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.</u></p> <p><u>The MHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)</u></p>
2-7		<p><u>New Section: VAWA Complaint Processing [Notice FHEO 2023-01]</u></p> <p><u>A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.</u></p> <p><u>Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.</u></p> <p><u>MHA Policy</u></p> <p><u>Applicants or tenant families who wish to file a VAWA complaint against the MHA may notify the MHA either orally or in writing.</u></p> <p><u>The MHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The MHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.</u></p> <p><u>The MHA will attempt to remedy complaints made against the MHA and will conduct an investigation into all allegations of discrimination.</u></p>

		<b><u>The MHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)</u></b>
3-1	<p>To be eligible for the public housing program: The applicant family must: Qualify as a family as defined by HUD and the PHA. Have income at or below HUD-specified income limits. Qualify on the basis of citizenship or the eligible immigrant status of family members. Provide social security number information for household members as required. Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms. Not currently receiving a duplicative subsidy. This chapter contains three parts: <u>Part I: Definitions of Family and Household Members.</u> This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members. <u>Part II: Basic Eligibility Criteria.</u> This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent. <u>Part III: Denial of Admission.</u> This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny admission.</p>	<p>(Revised) To be eligible for the public housing program: The applicant family must: Qualify as a family as defined by HUD and the PHA. Have income at or below HUD-specified income limits. Qualify on the basis of citizenship or the eligible immigrant status of family members. Provide social security number information for household members as required. Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms. Not currently be receiving a duplicative subsidy. Meet net asset and property ownership restriction requirements. This chapter contains three parts: <u>Part I: Definitions of Family and Household Members.</u> This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members. <u>Part II: Basic Eligibility Criteria.</u> This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent. <u>Part III: Denial of Admission.</u> This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the PHA to deny admission as well as the asset limitation for public housing.</p>
3-2	<p><b>3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, and Notice PIH 2014-20]</b> The terms <i>family</i> and <i>household</i> have different meanings in the public housing program.</p> <p><b>Family</b> To be eligible for admission, an applicant must qualify as a family. <i>Family</i> as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other</p>	<p><b>( Revised) 3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, Notice PIH 2014-20, Notice PIH 2023-27, and FR Notice 2/14/23]</b> The terms <i>family</i> and <i>household</i> have different meanings in the public housing program.</p> <p><b>Family</b> To be eligible for admission, an applicant must qualify as a family. <i>Family</i> as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group</p>

	<p>group of persons qualifies as a family.</p>	<p>of persons residing together. Such group includes, but is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.</p>
<p>3-6 3-9</p>	<p><b>3-I.F. DEPENDENT [24 CFR 5.603]</b></p>	<p><b>(Revised) 3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]</b>  A <i>minor</i> is a member of the family, other than the head of family or spouse, who is under 18 years of age.</p>
	<p><b>3-I.K. FOSTER CHILDREN AND FOSTER ADULTS</b></p> <p><i>Foster adults</i> are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].</p> <p>The term <i>foster child</i> is not specifically defined by the regulations.</p> <p>Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].</p> <p><u>MHA Policy</u></p> <p>A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.</p>	<p><b>(Revised) 3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]</b></p> <p>A <i>foster adult</i> is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.</p> <p>A <i>foster child</i> is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.</p> <p>Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].</p> <p><u>PHA Policy</u></p> <p>A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.</p>

3-12	<p style="text-align: center;"><b>PART II: BASIC ELIGIBILITY CRITERIA</b></p> <p><b>3-II.A. INCOME ELIGIBILITY AND TARGETING</b>  <b>Using Income Limits for Eligibility [24 CFR 960.201]</b>  Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a <i>low-income</i> family.</p>	<p style="text-align: center;"><b>(Revised) PART II: BASIC ELIGIBILITY CRITERIA</b></p> <p><b>3-II.A. INCOME ELIGIBILITY AND TARGETING</b>  <b>Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]</b>  Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a <i>low-income</i> family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.</p>
3-17	<p><b>3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION</b>  <b>[24 CFR 5.230]</b>  HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.  The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].</p>	<p><b>(Revised) 3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.232]</b>  HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.  The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)]. However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].  <u>PHA Policy</u>  The PHA has established a policy that the family's revocation of consent to allow the PHA to access records from financial institutions will result in denial of admission.</p>
3-18	<p><b>3-II.E. EIV SYSTEM SEARCHES [Notice PIH 2018-18; EIV FAQs;</b></p>	<p><b>(Revised) 3-II.E. EIV SYSTEM SEARCHES [EIV FAQs; EIV System</b></p>

	EIV System Training 9/30/20]	Training 9/30/20; and Notice PIH 2023-27]
3-20	<p><b>PART III: DENIAL OF ADMISSION</b>  <b>3-III.A. OVERVIEW</b>  HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that an PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16].</p> <p>This part covers the following topics:  Required denial of admission  Other permitted reasons for denial of admission  Screening  Criteria for deciding to deny admission  Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking  Notice of eligibility or denial</p>	<p>(Revised) <b>PART III: DENIAL OF ADMISSION</b>  <b>3-III.A. OVERVIEW</b>  HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.</p> <p>This part covers the following topics:  Required denial of admission  The asset limitation in public housing  Other permitted reasons for denial of admission  Screening  Criteria for deciding to deny admission  Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking  Notice of eligibility or denial</p>
3-23		<p>(New section)  <b>3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]</b>  There are two circumstances under which a family is ineligible for the program based on asset ownership.  First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).  Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:</p> <ul style="list-style-type: none"> <li>• A present ownership interest in the real property.</li> <li>• A legal right to reside in the real property; and</li> <li>• The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.</li> </ul>

		<p>However, the real property restriction does not apply in the following circumstances:</p> <ul style="list-style-type: none"> <li>• Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;</li> <li>• Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;</li> <li>• Any family that is offering the property for sale; or</li> <li>• Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking. <ul style="list-style-type: none"> <li>- When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.</li> </ul> </li> </ul> <p>A property is considered <i>suitable for occupancy</i> unless the family demonstrates that it:</p> <ul style="list-style-type: none"> <li>• 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.);</li> <li>• Is not sufficient for the size of the family; <ul style="list-style-type: none"> <li><u>PHA Policy</u> The PHA defines <i>not sufficient for the size of the family</i> as being overcrowded based on the PHA’s occupancy standards in Chapter 5.</li> </ul> </li> <li>• Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family’s place of work or school would be a hardship to the family, as determined by the PHA or owner);</li> <li>• Is not safe to reside in because of the physical condition of the property (e.g., property’s physical condition poses a risk to the family’s health and safety and the condition of the property cannot be easily remedied); or</li> <li>• Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.</li> </ul>
	<p><b>3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE,</b></p>	<p><b>(Revised) 3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING</b></p>

3-31	<p><b>SEXUAL ASSAULT, OR STALKING</b></p> <p>The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.</p> <p>Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.</p>	<p><b>VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING</b></p> <p>The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.</p>
6-1	<p style="text-align: center;"><b>Chapter 6</b> <b>INCOME AND RENT DETERMINATIONS</b> <b>[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]</b></p> <p style="text-align: center;"><b>INTRODUCTION</b></p> <p><u>Part I: Annual Income.</u> HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.</p> <p><u>Part II: Adjusted Income.</u> Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.</p> <p><u>Part III: Calculating Rent.</u> This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.</p>	<p style="text-align: center;"><b>Chapter 6</b> <b>(Revised) INCOME AND RENT DETERMINATIONS</b> <b>[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]</b></p> <p style="text-align: center;"><b>INTRODUCTION</b></p> <p><u>Part I: Annual Income.</u> HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.</p> <p><u>Part II: Assets.</u> HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.</p> <p><u>Part III: Adjusted Income.</u> Once annual income has been established, HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to adopt additional permissive deductions. These requirements and PHA policies for calculating adjusted income are found in Part III.</p> <p><u>Part IV: Calculating Rent.</u> This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice of rent.</p>
6-3,4	<p style="text-align: center;"><b>PART I: ANNUAL INCOME</b></p> <p><b>6-I.A. OVERVIEW</b></p> <p>The general regulatory definition of <i>annual income</i> shown below is from 24 CFR 5.609.</p> <p>5.609 Annual income.</p> <p>(a) Annual income means all amounts, monetary or not, which:</p> <p>(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or</p> <p>(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective</p>	<p><b>(Revised) PART I: ANNUAL INCOME</b></p> <p><b>6-I.A. OVERVIEW [24 CFR 5.609]</b></p> <p>Annual income includes:</p> <ul style="list-style-type: none"> <li>• All amounts, not specifically excluded in 24 CFR 5.609(b);</li> <li>• All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;</li> </ul>

	<p>date; and  (3) Which are not specifically excluded in paragraph [5.609(c)].  (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.</p> <p>In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:</p> <ul style="list-style-type: none"> <li>• Annual Income Inclusions (Exhibit 6-1)</li> <li>• Annual Income Exclusions (Exhibit 6-2)</li> <li>• Treatment of Family Assets (Exhibit 6-3)</li> <li>• Earned Income Disallowance (Exhibit 6-4)</li> <li>• The Effect of Welfare Benefit Reduction (Exhibit 6-5)</li> </ul> <p>Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.</p>	<ul style="list-style-type: none"> <li>• Unearned income by or on behalf of each dependent who is under 18 years of age; and</li> <li>• Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.</li> </ul> <p>In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation. Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].</p> <p>Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.</p> <p>The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:</p> <ul style="list-style-type: none"> <li>• Annual Income Full Definition (Exhibit 6-1)</li> <li>• Treatment of Family Assets (Exhibit 6-2)</li> <li>• The Effect of Welfare Benefit Reduction (Exhibit 6-3)</li> </ul> <p>Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.</p>
6-5	<p><b>6-I.B. HOUSEHOLD COMPOSITION AND INCOME</b></p> <p>Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below</p>	<p><b>6-I.B. HOUSEHOLD COMPOSITION AND INCOME</b></p> <p><b>Overview</b></p> <p>Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and</p>

summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

**Temporarily Absent Family Members**

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

MHA Policy

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

PHA policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

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

**(Revised) Temporarily Absent Family Members**

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence .

PHA Policy

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

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

**(Revised) Family Members Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent

6-7	<p><b><i>Individuals Confined for Medical Reasons</i></b></p> <p><u>MHA Policy</u> An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question about the status of a family member, the MHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.</p>	<p>basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, <i>Income Determinations</i>, p. 12].</p> <p><u>PHA Policy</u> The PHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member. When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.</p>
6-8	<p><b>6-I.C. ANTICIPATING ANNUAL INCOME</b> The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.</p> <p><b>Basis of Annual Income Projection</b> The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:</p> <ul style="list-style-type: none"> <li>• An imminent change in circumstances is expected [HCV GB, p. 5-17]</li> <li>• It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]</li> </ul>	<p><b>(Revised) 6-I.C. CALCULATING ANNUAL INCOME</b> The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.</p> <p><b>Anticipating Annual Income [24 CFR 5.609(c)(1)]</b> At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.</p> <p><u>PHA Policy</u> When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected</p>

- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]
- PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)]. HUD allows PHAs to use tenant-provided documents to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

MHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the MHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the MHA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days. The MHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

**If EIV or other UIV data is not available,**

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

**If the MHA determines additional information is needed.**

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

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

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

fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

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

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

***Known Changes in Income***

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

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

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

not represent the family's anticipated income.

**Known Changes in Income**

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

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes. When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

**Projecting Income**

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

		<p>At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.</p>
6- (12-17)	<p><b>6-I.D. EARNED INCOME</b>  <b>Types of Earned Income Included in Annual Income</b>  <b>Wages and Related Compensation [24 CFR 5.609(b)(1)]</b>  The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.</p> <p><u>MHA Policy</u>  For persons who regularly receive bonuses or commissions, the MHA will verify, and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the MHA will use the prior year amounts. In either case the family may provide, and the MHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the MHA will count only the amount estimated by the employer. The file will be documented appropriately.</p> <p><b>Some Types of Military Pay</b>  All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] <u>except</u> for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].</p> <p><b>Types of Earned Income Not Counted in Annual Income</b>  <b>Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]</b>  This type of income (including gifts) is not included in annual income.</p> <p><u>MHA Policy</u>  Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an</p>	<p><b>(Revised) 6-I.D. EARNED INCOME</b>  <b>Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]</b>  The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].</p> <p><i>Earned income</i> means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].</p> <p>A <i>day laborer</i> is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].</p> <p>A <i>seasonal worker</i> is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].</p> <p><u>PHA Policy</u>  The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.</p>

<p>individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.</p> <p><b>Children's Earnings [24 CFR 5.609(c)(1)]</b> Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of <i>foster children</i>.)</p> <p><b>Certain Earned Income of Full-Time Students</b> Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].</p> <p><b>Income of a Live-in Aide</b> Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)</p> <p><b>Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]</b> Income from some federal programs is specifically excluded from consideration as income, including:</p> <ul style="list-style-type: none"> <li>• Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)</li> <li>• Awards under the federal work-study program (20 U.S.C. 1087 uu)</li> <li>• Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))</li> <li>• Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))</li> <li>• Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)</li> </ul> <p><b>Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]</b> Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.</p>	<p>For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.</p> <p><b>Military Pay</b> All regular pay, special pay and allowances of a member of the Armed Forces are counted <u>except</u> for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].</p> <p><b>Earnings of a Minor [24 CFR 5.609(b)(3)]</b> A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.</p> <p><b>Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]</b> The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included. A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, <i>Lease Requirements</i>, p. 5].</p>
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***State and Local Employment Training Programs***

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

MHA Policy

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

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

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

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

***HUD-Funded Training Programs***

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

MHA Policy

To qualify as a training program, the program must meet the

	<p>definition of <i>training program</i> provided above for state and local employment training programs.</p> <p><b>Earned Income Tax Credit.</b> Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.</p> <p><b>Earned Income Disallowance.</b> The earned income disallowance is discussed in section 6-I.E below.</p>	
<p>6- <a href="#">17</a></p>	<p><b>6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16]</b></p> <p>The earned income disallowance (EID) encourages people to enter the workforce by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 960.255 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.</p> <p><b>Eligibility</b></p> <p>This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:</p> <ul style="list-style-type: none"> <li>• Employment of a family member who was previously unemployed for one or more years prior to employment. <i>Previously unemployed</i> includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.</li> <li>• Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].</li> <li>• New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF), or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no</li> </ul>	<p><b>(Revised) 6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]</b></p> <p>HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.</p>

minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

***Lifetime Limitation***

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

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

MHA Policy

The following rules pertaining to ISAs do not apply to this public housing program

A qualified family paying income-based rent may choose an ISA instead of being given the EID. The MHA must advise the family that the ISA option is available. Families who choose the ISA will pay the higher rent and the MHA will deposit the difference between the higher rent and the EID rent in the savings account.

Amounts deposited to ISAs may only be withdrawn for the following reasons:

- Because the family is purchasing a home
- To pay education costs of family members
- Because the family is moving out of public or assisted housing
- To pay any other expenses the MHA authorizes to promote economic self-sufficiency

The MHA is required to maintain ISAs in interest bearing accounts, for which the family is credited with interest earned. The MHA may not charge the family a fee for maintaining the account.

At least once each year the MHA must provide the family with a statement of the balance in their account, including any interest earned, if required by state law.

MHA Policy

When applicable, the MHA will provide the family with a statement of the balance in their account, including any interest earned,

***(Revised) Lifetime Limitation***

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

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

The PHA may, but is not required to, establish a policy to offer a qualified family, paying income-based rent an ISA instead of being given the EID

PHA Policy

The PHA chooses not to establish a system of individual savings account.

	<p>annually and upon request when the family makes withdrawals from the account.</p> <p>If the family moves out of public housing, the MHA must return the balance in the family's ISA, less any amounts the family owes the MHA.</p>	
6-21	<p><b>6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]</b>  Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].</p> <p><b>Business Expenses</b>  Net income is “gross income less business expense” [HCV GB, p. 5-19].</p> <p><u>MHA Policy</u>  To determine business expenses that may be deducted from gross income, the MHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.</p>	<p><b>(Revised) 6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]</b>  Annual income includes “net income from the operation of a business or profession. <i>Net income</i> is gross income minus business expenses that allows the business to operate. <i>Gross income</i> is all income amounts received into the business, prior to the deduction of business expenses.</p> <p>Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.”</p> <p><u>PHA Policy</u>  To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.</p> <p><b>Independent Contractors</b>  Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].  An <i>independent contractor</i> is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].</p> <p><b>Assets Owned by a Business Entity</b>  If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].</p>

**New Section:****6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

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

**Types of Assistance**

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

Examples of assistance under title IV of the HEA include:

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

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

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

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

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

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;

- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

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

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

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

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

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

PHA Policy

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

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

**Example 1**

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

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

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

**Example 2**

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

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

**Example 3**

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

**Example 4**

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

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

**Overview**

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

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

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

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

**General Policies**

***Income from Assets***

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

MHA Policy

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

***Valuing Assets***

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

[This section has been removed.](#)

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

MHA Policy

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

***Lump-Sum Receipts***

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

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

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

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

MHA Policy

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

The MHA will review the passbook rate annually. The rate will

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

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

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

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

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

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

***Jointly Owned Assets***

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

**MHA Policy**

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

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

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

HUD regulations require the PHA to count as a current asset any business

or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

*Minimum Threshold*

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

MHA Policy

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

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

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

*Separation or Divorce*

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

MHA Policy

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

*Foreclosure or Bankruptcy*

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

*Family Declaration*

MHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The MHA may verify the value of the assets disposed of if other information

available to the MHA does not appear to agree with the information reported by the family.

#### **Types of Assets**

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

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

##### MHA Policy

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

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

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

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

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

##### MHA Policy

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

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

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

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

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

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

##### MHA Policy

<p>In determining the equity, the MHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.</p> <p>The MHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the MHA will use the basic loan balance information to deduct from the market value in the equity calculation.</p> <p>Equity in real property and other capital investments is considered in the calculation of asset income <b>except</b> for the following types of assets:</p> <ul style="list-style-type: none"><li>• Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]</li><li>• Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.</li><li>• Interests in Indian Trust lands [24 CFR 5.603(b)]</li><li>• Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]</li></ul> <p>The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].</p> <p><u>MHA Policy</u></p> <p>For the purposes of calculating expenses to convert to cash for real property, the MHA will use ten percent of the market value of the home.</p> <p>A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.</p> <p>In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.</p> <p><u>MHA Policy</u></p>	
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In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the MHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

**Trusts**

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

*Revocable Trusts*

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

*Nonrevocable Trusts*

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

**Retirement Accounts**

*Company Retirement/Pension Accounts*

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

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

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

*IRA, Keogh, and Similar Retirement Savings Accounts*

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

**Personal Property**

	<p>Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].</p> <p><u>MHA Policy</u> In determining the value of personal property held as an investment, the MHA will use the family's estimate of the value. The MHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.</p> <p>Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.</p> <p>Necessary items of personal property are not considered assets [24 CFR 5.603(b)].</p> <p><u>MHA Policy</u> Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.</p> <p><b>Life Insurance</b> The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.</p>	
<p>6-(36-37)</p>	<p><b>6-I.H. PERIODIC PAYMENTS</b> Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.</p> <p><b>Periodic Payments Included in Annual Income</b></p> <ul style="list-style-type: none"> <li>• Periodic payments from sources such as <u>social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions</u>. However, periodic payments from retirement accounts, annuities,</li> </ul>	<p><b>(Revised) 6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]</b> Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.</p> <p>Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly,</p>

<p>and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].</p> <ul style="list-style-type: none"> <li>• <u>Disability or death benefits and lottery receipts</u> paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]</li> </ul> <p><b>Lump-Sum Payments for the Delayed Start of a Periodic Payment</b></p> <p>Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].</p> <p><u>MHA Policy</u></p> <p>When a delayed-start payment is received and reported during the period in which the MHA is processing an annual reexamination, the MHA will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the MHA.</p>	<p>or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.</p> <p>Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.</p> <p><b>Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]</b></p> <ul style="list-style-type: none"> <li>• Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income..</li> </ul> <p><u>PHA Policy</u></p> <p>The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance. When a delayed-start payment is received that is to be included and the family reports this during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's rent retroactively for the period the payment was intended to cover.</p> <p>If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 9. If not, the PHA will consider the amount when processing the family's next annual recertification.</p> <p><b>(Added Section and updated):</b>  <b>Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]</b></p>
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**Treatment of Overpayment Deductions from Social Security Benefits**

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].

**Applying SSA COLA to Current Annual and Interim Reexaminations**

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1st or later of the upcoming year [Notice PIH 2018-24].

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

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

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

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

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

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27].

PHA Policy

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

(New Section)  
Alimony and Child Support

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

PHA Policy

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

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

In order to verify that payments are not being made, the PHA will review child support payments over the last three months.

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

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

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

6-40

**Periodic Payments Excluded from Annual Income**

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1].  
MHA Policy  
The MHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

This section has been removed.

**New Section: 6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income.

The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

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

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

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

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

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)]. Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].

		<ul style="list-style-type: none"> <li>• Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.</li> <li>• Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].</li> </ul>
6-41	<p><b>6-I.I. PAYMENTS IN LIEU OF EARNINGS</b>  Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are</p>	<p><u><a href="#">This section has been removed.</a></u></p>

	<p>received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)</p>	
<p>6-43</p>	<p><b>6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]</b>  Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.</p> <p><b>Alimony and Child Support</b>  The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.</p> <p><u>MHA Policy</u>  The MHA will count court-awarded amounts for alimony and child support unless the MHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].  Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.</p> <p><b>Regular Contributions or Gifts</b>  The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].</p> <p><u>MHA Policy</u>  Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.  Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the MHA. For contributions that may vary from month to month (e.g., utility payments), the MHA will include an average amount based upon past history.</p>	<p><a href="#">This section has been removed.</a></p>

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

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

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

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

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

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

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

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

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an

inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination

<p>6-<del>45</del>-48</p>	<p><b>6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME</b> Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 that have not been discussed earlier in this chapter include the following:</p> <ul style="list-style-type: none"> <li>• Reimbursement of medical expenses [24 CFR 5.609(c)(4)]</li> <li>• The full amount of <u>student financial assistance</u> paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]. <b>MHA Policy</b> Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment <b>is not</b> considered student financial assistance and is included <b>in</b> annual income.</li> <li>• Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]</li> <li>• Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a <u>Plan to Attain Self-Sufficiency (PASS)</u> [(24 CFR 5.609(c)(8)(ii)]</li> <li>• <u>Reparation payments</u> paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]</li> </ul>	<p><b>Revised: 6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]</b> Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:</p> <ul style="list-style-type: none"> <li>• Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].</li> <li>• Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)] However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].</li> <li>• Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].</li> <li>• Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].</li> <li>• Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].</li> </ul>
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<ul style="list-style-type: none"> <li>• <u>Adoption assistance</u> payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]</li> <li>• <u>Refunds or rebates on property taxes</u> paid on the dwelling unit [24 CFR 5.609(c)(15)]</li> <li>• Amounts paid by a state agency to a family with a member who has a <u>developmental disability and is living at home</u> to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]</li> <li>• Amounts specifically <u>excluded by any other federal statute</u> [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes: <ul style="list-style-type: none"> <li>(a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))</li> <li>(b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC</li> <li>(c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)</li> <li>(d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))</li> <li>(e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)</li> <li>(f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))</li> <li>(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)</li> <li>(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts</li> <li>(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)</li> <li>(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))</li> <li>(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].</li> <li>• The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].</li> <li>• Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].</li> <li>• Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].</li> <li>• Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of <i>annual income</i> in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.</li> <li>• Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing</li> </ul>
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<p>States District Court case entitled <i>Elouise Cobell et al. v. Ken Salazar et al.</i>, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010</p> <p>(l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)</p> <p>(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)</p> <p>(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))</p> <p>(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in <i>In Re Agent Orange</i> product liability litigation, M.D.L. No. 381 (E.D.N.Y.)</p> <p>(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida</p> <p>(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)</p> <p>(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)</p> <p>(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))</p> <p>(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)</p> <p>(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-</p>	<p>“gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].</p> <ul style="list-style-type: none"> <li>• Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].</li> <li>• Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].</li> <li>• Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].</li> <li>• Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].</li> <li>• Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].</li> </ul> <ul style="list-style-type: none"> <li>• <u>PHA Policy</u></li> <li>• The PHA defines <i>training program</i> as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure</li> </ul>
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<p>249)</p> <p>(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))</p> <p>(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)</p> <p>(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002</p> <p>(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))</p> <p>(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations</p> <p>(aa) Distributions from an ABLÉ account, and actual or imputed interest on the ABLÉ account balance</p>	<p>proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].</p> <ul style="list-style-type: none"> <li>• The PHA defines <i>incremental earnings and benefits</i> as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].</li> <li>• In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.</li> <li>• End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements (see Chapter 11).</li> </ul> <ul style="list-style-type: none"> <li>• Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].</li> <li>• Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].</li> <li>• Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].</li> <li>• Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the <i>Federal Register</i> to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].</li> </ul>
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- HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

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**(New Section) PART II: ASSETS**

**6-II.A. OVERVIEW**

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

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

Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

PHA Policy

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant. Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

**(New Section) 6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

***Minimum Threshold***

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations*, p. 24].

***PHA Policy***

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

***Separation or Divorce***

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

***PHA Policy***

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

***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

***Asset Owned by a Business Entity***

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some

		<p>portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].</p> <p><b>Family Declaration</b></p> <p><u>PHA Policy</u></p> <p>Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.</p>
<p>6-(54-62)</p>		<p><b>(New Section) 6-II.C. ASSET INCLUSIONS AND EXCLUSIONS</b></p> <p><b><i>Checking and Savings Accounts [Notice PIH 2023-27]</i></b></p> <p>HUD considers bank accounts as non-necessary items of personal property. Whether or not necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.</p> <ul style="list-style-type: none"> <li>• When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.</li> <li>• When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.</li> </ul> <p>However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.</p> <p><b><i>ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]</i></b></p> <p>An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's</p>

ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

PHA Policy

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]***

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability.

Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care-related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATV's)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as

persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	gems/precious metals, antique cars, artwork, etc.
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PHA Policy

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

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

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income. In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

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

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

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

PHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the

		<p>family immediately spends the entire amount, the lump sum will not be counted toward net family assets.</p> <p><b><i>Jointly Owned Assets [Notice PIH 2023-27]</i></b>  For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:</p> <ul style="list-style-type: none"> <li>• The asset is otherwise excluded;</li> <li>• The family can demonstrate that the asset is inaccessible to them; or</li> <li>• The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.</li> </ul> <p>If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.</p> <p>Any income from a jointly owned asset must be included in annual income, unless:</p> <ul style="list-style-type: none"> <li>• The income is specifically excluded;</li> <li>• The family demonstrates that they do not have access to the income from that asset; or</li> <li>• The family only has access to a portion of the income from that asset.  PHA Policy  If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.</li> </ul> <p>If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.</p>
		<p><b><i>Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]</i></b>  A <i>trust</i> is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries). The following types of trust distributions are excluded from annual income:</p> <ul style="list-style-type: none"> <li>• Distributions of the principal or corpus of the trust; and</li> </ul>

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

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account.

There are two types of trusts, *revocable* and *irrevocable*.

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

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

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

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

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

Revocable trusts under the control of the family or household (e.g., the grantor is

a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].

<ul style="list-style-type: none"><li>• The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].<ul style="list-style-type: none"><li>- <i>Real property</i> as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].</li><li>- Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].</li></ul></li><li>• Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];</li><li>• The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];</li><li>• The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];</li><li>• The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];</li><li>• Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];</li><li>• Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];</li><li>• Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];</li><li>• Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];</li><li>• Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].</li><li>• The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and</li></ul>
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- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

**New Section: 6-II.D. DETERMINING INCOME FROM ASSETS**

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

***Net Family Assets***

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

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

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

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

***Actual Income from Assets***

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

		<p>Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.</p> <p>The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.</p> <p>The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.</p> <p><b>Imputed Income from Assets</b></p> <p>When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].</p> <p>An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.</p>
<p><del>6-(65-67)</del></p>	<p align="center"><b>PART II: ADJUSTED INCOME</b></p> <p><b>6-II.A. INTRODUCTION</b>  <b>Overview</b>  HUD regulations require PHAs to deduct from annual income any of five</p>	<p align="center"><b>(Revised and Updated) PART III: ADJUSTED INCOME</b></p> <p><b>6-III.A. INTRODUCTION</b>  <b>Overview</b>  HUD regulations require PHAs to deduct from annual income any of five</p>

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<p>mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.</p>	<p>mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.</p>
<p>5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:</p> <ul style="list-style-type: none"> <li>(1) \$480 for each dependent;</li> <li>(2) \$400 for any elderly family or disabled family;</li> <li>(3) The sum of the following, to the extent the sum exceeds three percent of annual income: <ul style="list-style-type: none"> <li>(i) Unreimbursed medical expenses of any elderly family or disabled family;</li> <li>(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and</li> <li>(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further their education.</li> </ul> </li> </ul>	<p>5.611 <i>Adjusted income</i> means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:</p> <p>(a) <i>Mandatory deductions</i></p> <ul style="list-style-type: none"> <li>(1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);</li> <li>(2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);</li> <li>(3) The sum of the following, to the extent the sum exceeds ten percent of annual income: <ul style="list-style-type: none"> <li>(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;</li> <li>(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and</li> <li>(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education</li> </ul> </li> </ul>
<p>This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.</p> <p><b>Anticipating Expenses</b> <u>MHA Policy</u></p> <p>Generally, the MHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the MHA will estimate costs based on historic data and known future costs.</p> <p>If a family has an accumulated debt for medical or disability assistance expenses, the MHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The MHA may require the family to provide documentation of payments made in the preceding year.</p>	<p>When calculating health and medical care expenses, the PHA will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the <i>PH Occupancy Guidebook</i> states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, <i>Income Determinations</i>, p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.</p>

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

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

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

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

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**6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]**

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

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

**Definition of Medical Expenses**

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

MHA Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

**Summary of Allowable Medical Expenses from IRS Publication 502**

- Services of medical professionals
- Surgery and medical procedures that are necessary, legal, non cosmetic
- Services of medical facilities

**(Revised) 6-III.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

**(Revised) 6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

**6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]**

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

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

**Definition of Medical Expenses**

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.”

Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD

Hospitalization, long-term care, and in-home nursing services

Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor

Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)

Substance abuse treatment programs

Psychiatric treatment

Ambulance services and some costs of transportation related to medical expenses

The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)

Cost and continuing care of necessary service animals

Medical insurance premiums or the cost of a health maintenance organization (HMO)

**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source

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

MHA Policy

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

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

is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of *health and medical care expenses*.

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

PHA Policy

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

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

<p>6-(70-73)</p> <p><b>6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]</b>  Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.  <b>Earned Income Limit on the Disability Assistance Expense Deduction</b>  A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].  The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.  <u>MHA Policy</u>  The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the MHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.  When the MHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members’ incomes [PH Occ GB, p. 124].  <b>Eligible Disability Expenses</b>  Examples of auxiliary apparatus are provided in the <i>PH Occupancy Guidebook</i> as follows: “Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals” [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].</p>	<p><b>6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]</b>  Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.  <b>Earned Income Limit on the Disability Assistance Expense Deduction</b>  A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].  The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.  <u>PHA Policy</u>  The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.  When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes [New PH OCC GB, <i>Income Determination</i>, p. 28].  <b>Eligible Auxiliary Apparatus [Notice PIH 2023-27]</b>  Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to</p>
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HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

***Eligible Auxiliary Apparatus***

MHA Policy

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

***Eligible Attendant Care***

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

MHA Policy

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

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

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

***Payments to Family Members***

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

***Necessary and Reasonable Expenses***

enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

***Eligible Attendant Care [Notice PIH 2023-27]***

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

PHA Policy

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

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

***Payments to Family Members***

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

***Necessary and Reasonable Expenses***

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

PHA Policy

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

***Families That Qualify for Both Health and Medical and Disability***

<p>The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.</p> <p><u>MHA Policy</u> The MHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the MHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the MHA will consider, the family's justification for costs that exceed typical costs in the area.</p> <p><b>Families That Qualify for Both Medical and Disability Assistance Expenses</b></p> <p><u>MHA Policy</u> This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the MHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.</p> <p><b>6-II.F. CHILD CARE EXPENSE DEDUCTION</b> HUD defines <i>child care expenses</i> at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."</p>	<p><b>Assistance Expenses</b></p> <p><u>PHA Policy</u> This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.</p> <p><b>6-III.F. CHILD CARE EXPENSE DEDUCTION</b> HUD defines <i>child care expenses</i> at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."</p>
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**New Section) 6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

***Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]***

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

***Phased-In Relief***

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

PHA Policy

The PHA will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

**General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical

and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The PHA defines a *change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.

Examples of *circumstances* constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

- Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party *verification* is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

- If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

- If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier.

However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish

written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

***Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]***

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction. The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent. Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses)

		<p>are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).</p> <p>The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.</p> <p>The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.</p> <p>If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent. If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].</p> <p><u>PHA Policy</u></p> <p>The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.</p> <p>If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a grievance hearing. If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.</p> <p>If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. . PHAs must develop policies requiring families to report if the circumstances that made the</p>
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family eligible for the hardship exemption are no longer applicable. PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

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

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

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

MHA Policy

The MHA has opted not to use permissive deductions.

**6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(i)]**

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

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such

7-28	<p><b>Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]</b>  A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.</p>	<p><b>Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)] (Revised)</b>  <u>With the exception of non-public housing over-income families</u>, a family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.</p>
8-1	<p><b>7-IV.C. DISABILITY ASSISTANCE EXPENSES</b>  Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.  <b>Amount of Expense</b>  <b>Attendant Care</b>  <u>MHA Policy</u>  The MHA will accept written third-party documents provided by the family.  If family-provided documents are not available, the MHA will provide a third-party verification form directly to the care provider requesting the needed information.  Expenses for attendant care will be verified through:  Written third-party documents provided by the family, such as receipts or cancelled checks.  Third-party verification form signed by the provider, if family-provided documents are not available.  If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.</p>	<p><b>7-IV.C. DISABILITY ASSISTANCE EXPENSES</b>  <u>Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.</u>  <b>Amount of Expense</b>  <b>Attendant Care</b>  <u>MHA Policy (Revised)</u>  <u>Expenses for attendant care will be verified through:</u>  <u>Written third-party documents provided by the family, such as receipts or cancelled checks.</u>  <u>Third-party verification form signed by the provider, if family-provided documents are not available.</u>  <u>If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.</u></p>
8-11	<p style="text-align: center;"><b>LEASING AND INSPECTIONS</b>  [24 CFR 5, Subpart G; 24 CFR 966, Subpart A]</p> <p><b>INTRODUCTION</b>  <u>Part II: Inspections.</u> This part describes the PHA's policies for inspecting dwelling units.</p>	<p style="text-align: center;"><b>LEASING AND INSPECTIONS</b>  [24 CFR 5, Subpart G; 24 CFR 966, Subpart A]</p> <p><b>INTRODUCTION</b>  <u>Part II: Inspections.</u> This part describes the PHA's policies for inspecting dwelling units and notifying families of HUD REAC NSPIRE inspections.</p>

	<p><b>PART I: LEASING</b></p> <p><b>8-I.A. OVERVIEW</b></p> <p>An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.</p> <p>The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the PHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].</p> <p>PHAs must adopt smoke-free policies, which must be implemented no later than July 30, 2018. The policy is attached as Exhibit 8-1.</p> <p>PHAs must include in the ACOP residential minimum heating standards policies [Notice PIH 2018-19]. The policy is included in Part I of this chapter.</p> <p>Part I of this chapter contains regulatory information on leasing, where applicable, as well as the PHA's leasing policies.</p>	<p><b>PART I: LEASING</b></p> <p><b>8-I.A. OVERVIEW (Revised)</b></p> <p>An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.</p> <p>The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the PHA may not renew the lease if the family has violated the community service requirement <b><u>and if the family is determined to be over income for 24 consecutive months [24 CFR 966.4(a)(2)].</u></b></p> <p>PHAs must adopt smoke-free policies, which <b><u>HUD required to be implemented no later than July 30, 2018.</u></b> The policy is attached as Exhibit 8-1.</p> <p>Part I of this chapter contains regulatory information on leasing, where applicable, as well as the PHA's leasing policies.</p> <p><b><u>Added: For policies on lease requirements for families whose incomes have exceeded the over-income limit for 24 consecutive months, see 13-III.C., Over-Income Families.</u></b></p>
8-13	<p><b>8-I.G. MINIMUM HEATING STANDARDS [Notice PIH 2018-19]</b></p>	<p>(Remove entire section)</p> <p>8-I.G. MINIMUM HEATING STANDARDS [Notice PIH 2018-19]</p>
8-14	<p><b>PART II: INSPECTIONS</b></p> <p><b>8-II.A. OVERVIEW</b></p> <p>HUD regulations require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the PHA may require additional inspections, in accordance with PHA Policy. This part contains the PHA's policies governing inspections, notification of unit entry, and inspection results.</p> <p><b>8-II.B. TYPES OF INSPECTIONS</b></p>	<p><b>(Revised) PART II: INSPECTIONS</b></p> <p><b>8-II.A. OVERVIEW</b></p> <p>The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local</p>

		<p>code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].</p> <p>Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each public housing unit prior to move-in and at move-out. The PHA may require additional inspections, in accordance with PHA policy. This part contains the PHA's policies governing inspections by the PHA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.</p> <p><b>8-II.B. PHA-CONDUCTED INSPECTIONS</b></p> <p>The PHA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].</p> <p><b>Types of PHA-Conducted Inspections</b></p>
8-15	<p><b>Annual Inspections [24 CFR 5.705]</b></p> <p>Section 6(f)(3) of the United States Housing Act of 1937 requires that PHAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. The PHA shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.</p> <p><u>MHA Policy</u></p> <p>The MHA will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).</p> <p><b>Quality Control Inspections</b></p> <p>The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an</p>	<p><b>(add) Self-Inspections [24 CFR 5.707]</b></p> <p>Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.</p> <p>The PHA must maintain the results of self-inspections for three years and must provide the results to HUD upon request.</p> <p><b>(remove)</b></p> <p><b>Quality Control Inspections</b></p> <p>The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed and within an acceptable time frame.</p>

	acceptable level of craftsmanship and within an acceptable time frame	
8-16, 8-17	<p><u>MHA Policy</u></p> <p>Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if they wish.</p>	<p><u>PHA Policy</u></p> <p>While the resident is required to be present for move-in inspections, the resident is not required to be present for other types of inspections. The resident may attend the inspection if they wish.</p>
8-18	<p><b>8-II.D. INSPECTION RESULTS</b></p> <p>The PHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].</p> <p><b>Emergency Repairs [24 CFR 966.4(h)]</b></p> <p>If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame.</p> <p>If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.</p> <p>If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.</p> <p><u>MHA Policy</u></p> <p>When conditions in the unit are hazardous to life, health, or safety, the MHA will make repairs or otherwise abate the situation within 24 hours. Defects hazardous to life, health, or safety include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>Any condition that jeopardizes the security of the unit</li> <li>Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling</li> </ul>	<p><b>(Remove) Repairs (Revise)</b></p> <p>Correction timeframes differ depending on whether repairs are considered emergency or non-emergency repairs.</p> <p><b>Emergency Repairs [24 CFR 966.4(h)]</b></p> <p>If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame. Under NSPIRE, the PHA must correct all Life-Threatening and Severe deficiencies within 24 hours.</p> <p>If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.</p> <p>If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.</p> <p><u>M (Remove)</u></p>

	<p>Natural or LP gas or fuel oil leaks</p> <p>Any electrical problem or condition that could result in shock or fire</p> <p>Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit</p> <p>Utilities not in service, including no running hot water</p> <p>Conditions that present the imminent possibility of injury</p> <p>Obstacles that prevent safe entrance or exit from the unit</p> <p>Absence of a functioning toilet in the unit</p> <p>Inoperable smoke detectors</p> <p>In situations where the unit or building has a fuel burning appliance or an attached garage, missing or inoperable carbon monoxide detectors</p>	
8-19	<p><b>Non-emergency Repairs</b></p> <p><u>MHA Policy</u></p> <p>The MHA will correct non-life threatening health and safety defects within 15 business days of the inspection date. If the MHA is unable to make repairs within that period due to circumstances beyond the MHA's control (e.g. required parts or services are not available, weather conditions, etc.) the MHA will notify the family of an estimated date of completion.</p> <p><b>Housekeeping</b></p> <p>Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in a \$100 fine per smoke detector. A third incident will result in termination of the lease.</p>	<p><b>Non-emergency Repairs</b></p> <p><u>MHA Policy (Revised)</u></p> <p>The PHA will correct deficiencies resulting in a non-emergency work order identified during a PHA conducted inspection within 15 business days of the inspection date. If the PHA is unable to make repairs within that period due to circumstances beyond the PHA's control (e.g., required parts or services are not available, weather conditions, etc.) the PHA will notify the family of an estimated date of completion.</p> <p><b>Housekeeping (Revised)</b></p> <p>Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in a \$100 fine per smoke detector. A third incident will result in termination of the lease.</p>

8-20		<p><b>(Add Section)</b></p> <p><b>8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]</b></p> <p>During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.</p> <p><b>Notice to Residents [Notice PIH 2023-16]</b></p> <p>The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.</p> <p><u>MHA Policy</u></p> <p>The PHA will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.</p>
9-1		<p><b>(add section)</b></p> <p><b>24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]</b></p> <p>At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD</p>

within two business days of receipt of notification of the deficiency.  
If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the PHA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

PHA Policy

The PHA will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the PHA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While the PHA will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, the PHA will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, the PHA will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow the PHA access to the unit to make repairs.

**Non-emergency Repairs**

Under NSPIRE, the PHA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

PHA Policy

If the PHA is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond the PHA's control (e.g., required parts or services are not available, weather conditions, etc.), the PHA will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. The PHA will also notify the family of an estimated date of completion.

The family must allow the PHA access to the unit to make repairs.

		Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.
11-2	<p style="text-align: center;"><b>REEXAMINATIONS</b> [24 CFR 960.257, 960.259, 966.4]</p> <p><b>INTRODUCTION</b></p> <p>The PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].</p>	<p style="text-align: center;"><b>REEXAMINATIONS</b> [24 CFR 960.257, 960.259, 966.4]</p> <p><b>INTRODUCTION (Revised) <u>With the exception of non-public housing over income families</u></b>, the PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].</p>
11-13	<p><b>Definitions</b></p> <p><b><i>Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]</i></b></p> <p>An <i>exempt individual</i> is an adult who:</p> <ul style="list-style-type: none"> <li>• Is age 62 years or older</li> <li>• Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions</li> <li>• Is a primary caretaker of such an individual</li> <li>• Is engaged in work activities</li> </ul> <p style="text-align: center;"><u>MHA Policy</u></p> <p>The MHA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.</p> <ul style="list-style-type: none"> <li>• Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the MHA is located, including a state-administered welfare-to-work program</li> </ul> <p>– This exemption applies to anyone whose characteristics or family</p>	<p><b>Definitions</b></p> <p><b><i>Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]</i></b></p> <p>An <i>exempt individual</i> is an adult who:</p> <ul style="list-style-type: none"> <li>• Is age 62 years or older</li> <li>• Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions</li> <li>• Is a primary caretaker of such an individual</li> <li>• Is engaged in work activities</li> </ul> <p style="text-align: center;"><u>MHA Policy</u></p> <p>The MHA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.</p> <ul style="list-style-type: none"> <li>• Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program</li> </ul> <p>– This exemption applies to anyone whose characteristics or family</p>

	<p>situation meet the welfare agency exemption criteria and can be verified.</p> <ul style="list-style-type: none"> <li>• Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.</li> </ul>	<p>situation meet the welfare agency exemption criteria and can be verified.</p> <ul style="list-style-type: none"> <li>• Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.</li> <li>• <b><u>(added) Is a member of a non-public housing over-income family.</u></b></li> </ul>
11-20	<p><b>11-I.E. NONCOMPLIANCE</b> <b>Noncompliant Residents</b></p> <p>The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].</p>	<p><b>11-I.E. NONCOMPLIANCE</b> <b>Noncompliant Residents (Revised)</b></p> <p>(Revised):The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement <b><u>and families determined to be over-income for 24 consecutive months.</u></b> Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].</p>
12-5	<p><b>Exempt Adult</b> – an adult member of the family who meets any of the following criteria:</p> <ul style="list-style-type: none"> <li>• Is 62 years of age or older</li> <li>• Is blind or a person with disabilities (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability they are unable to comply with the service provisions, or is the primary caretaker of such an individual</li> <li>• Is engaged in <i>work activities</i></li> <li>• Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or</li> </ul>	<p><b>Exempt Adult</b> – an adult member of the family who meets any of the following criteria:</p> <ul style="list-style-type: none"> <li>• Is 62 years of age or older</li> <li>• Is blind or a person with disabilities (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability they are unable to comply with the service provisions, or is the primary caretaker of such an individual</li> <li>• Is engaged in <i>work activities</i></li> <li>• Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or</li> </ul>

	<p>Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program. PHAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.</p>	<ul style="list-style-type: none"> <li>Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program</li> <li><b><u>(added) Is a member of a non-public housing over-income family.</u></b></li> </ul> <p>PHAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.</p>
13-1	<p><b>12-II.B. TYPES OF PHA REQUIRED TRANSFERS</b></p> <p><u>MHA Policy</u></p> <p>The types of transfers that may be required by the MHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.</p> <p>Transfers required by the MHA are mandatory for the tenant.</p>	<p><b>12-II.B. TYPES OF PHA REQUIRED TRANSFERS</b></p> <p><u>PHA Policy</u></p> <p>The types of transfers that may be required by the PHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.</p> <p>Transfers required by the PHA are mandatory for the tenant. The family will be given 15 days to vacate the unit after receipt of written notice.</p>
13-8	<p style="text-align: center;"><b>LEASE TERMINATIONS</b></p> <p><b>INTRODUCTION</b></p> <p>Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing. Likewise, there are safeguards to protect HUD's interest in the public housing program. The PHA has the authority to terminate the lease because</p>	<p style="text-align: center;"><b>LEASE TERMINATIONS</b></p> <p><b>INTRODUCTION</b></p> <p>Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing. Likewise, there are safeguards to protect HUD's interest in the public housing program. The PHA has the authority to terminate the lease because of the</p>

	<p>of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by the PHA.</p> <p>When determining PHA policy on terminations of the lease, the PHA must consider state and local landlord-tenant laws in the area where the PHA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation. This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the PHA. It is presented in four parts:</p> <p><u>Part I: Termination by Tenant.</u> This part discusses the PHA requirements for voluntary termination of the lease by the family.</p> <p><u>Part II: Termination by PHA - Mandatory.</u> This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.</p>	<p>family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by the PHA.</p> <p>When determining PHA policy on terminations of the lease, the PHA must consider state and local landlord-tenant laws in the area where the PHA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation. This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the PHA. It is presented in four parts:</p> <p><u>Part I: Termination by Tenant.</u> This part discusses the PHA requirements for voluntary termination of the lease by the family.</p> <p><u>(Revised)Part II: Termination by PHA - Mandatory.</u> This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements <b>and families that have been over the income limit for 24 consecutive months.</b></p>
13-9	<p><b>13-II.J. OVER INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2019-11; FR Notice 2/14/23]</b></p> <p>In the public housing program, an <i>over-income family</i> is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:</p> <ul style="list-style-type: none"> <li>• Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or</li> <li>• Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.</li> </ul> <p>The PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.</p> <p><u>PHA Policy</u></p> <p>For families whose income exceeds the over-income limit for 24 consecutive months, the PHA will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public</p>	<p><b><u>(Revised) 13-II.J. OVER INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]</u></b></p> <p><b><u>In the public housing program, an <i>over-income family</i> is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or</u></b></li> <li>• <b><u>Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.</u></b></li> </ul> <p>However, a PHA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, <b><u>the PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.</u></b></p> <p><u>MHA Policy</u></p>

	<p>housing lease in accordance with the continued occupancy policies below.</p> <p><b>Over-Income Limit [Notice PIH 2019-11]</b> The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.</p> <p><u>MHA Policy</u> adopted, but no later than March 24, 2019. The MHA will not evict or terminate the tenancies of families whose income exceeds the income limit for program eligibility as described at 24 CFR 960.261. The MHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.</p> <table border="1" data-bbox="178 678 850 815"> <thead> <tr> <th>Family Size</th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> <th>7</th> <th>8</th> </tr> </thead> <tbody> <tr> <td>Over-Income Limit</td> <td>\$26,450</td> <td>\$30,200</td> <td>\$34,000</td> <td>\$37,750</td> <td>\$40,800</td> <td>\$43,800</td> <td>\$46,850</td> <td>\$49,850</td> </tr> </tbody> </table> <p>For families larger than 8 persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.</p>	Family Size	1	2	3	4	5	6	7	8	Over-Income Limit	\$26,450	\$30,200	\$34,000	\$37,750	\$40,800	\$43,800	\$46,850	\$49,850	<p><u>For families whose income exceeds the over-income limit for 24 consecutive months, the MHA will terminate the family's no more than six months after final notifications of the family's over-income status in accordance with the continued occupancy policies below.</u></p> <p><b>Over-Income Limit [Notice PIH 2023-03]</b> <u>The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.</u></p> <p><u>MHA Policy</u> <u>The MHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.</u></p> <table border="1" data-bbox="934 662 1549 799"> <thead> <tr> <th>Family Size</th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> <th>7</th> <th>8</th> </tr> </thead> <tbody> <tr> <td>Over-Income Limit</td> <td>\$26,050</td> <td>\$29,800</td> <td>\$33,500</td> <td>\$37,200</td> <td>\$40,200</td> <td>\$43,200</td> <td>\$46,150</td> <td>\$49,150</td> </tr> </tbody> </table> <p><u>For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.</u></p>	Family Size	1	2	3	4	5	6	7	8	Over-Income Limit	\$26,050	\$29,800	\$33,500	\$37,200	\$40,200	\$43,200	\$46,150	\$49,150
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13-10,11,12,	<p><b>Decreases in Income [24 CFR 960.507(c)(4)]</b> If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.</p> <p><u>PHA Policy</u> If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHA policy in Chapter 9. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income</p>	<p><b>Decreases in Income [24 CFR 960.507(c)(4)]</b> <u>If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.</u></p> <p><u>MHA Policy</u> <u>If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with MHA policy in Chapter 9. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The MHA will notify the family in writing within 10</u></p>																																				

	<p>provisions as of the effective date of the recertification. The PHA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.</p> <p><b>Initial Notice of Over-Income Status [24 CFR 960.507(c)(1)]</b></p> <p>If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.</p> <p><u>PHA Policy</u></p> <p>At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days the PHA will notify the family in writing of the determination and that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA's over-income policies. The notice will state that the family may request a hearing if the family disputes the PHA's determination in accordance with PHA policies in Chapter 14.</p>	<p><u>business days of the determination that over-income policies no longer apply to them.</u></p> <p><b><u>Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]</u></b></p> <p><b><u>If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.</u></b></p> <p><u>MHA Policy</u></p> <p><b><u>At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, the MHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the MHA's over-income policies. The notice will state that the family may request a hearing if the family disputes the MHA's determination in accordance with MHA policies in Chapter 14. The MHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.</u></b></p>
	<p><b>Second Notice of Over-Income Status [24 CFR 960.507(c)(2)]</b></p> <p>The PHA must conduct an income examination 12 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a</p>	<p><b>Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]</b></p> <p><b><u>The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination.</u></b> This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.</p> <p><b><u>If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification</u></b></p>

<p>reasonable time the PHA's determination that the family has exceeded the over-income limit.</p> <p><u>PHA Policy</u></p> <p>If a family's income exceeds the applicable over-income limit after 12 consecutive months, within 10 business days, the PHA will notify the family in writing of the determination and that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the PHA's determination in accordance with PHA policies in Chapter 14.</p>	<p><u>of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the income base rent and/or flat rate t for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.</u> Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.</p> <p><u>MHA Policy</u></p> <p><u>If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, the MHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the MHA's over-income policies. The notice will provide an estimate of the income based rent or flat rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the MHA's determination in accordance with MHA policies in Chapter 14.</u> The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.</p>
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<p><b>Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509]</b></p> <p>Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination. If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.</p> <p><u>PHA Policy</u></p> <p>If a family's income exceeds the applicable over-income limit for 24 consecutive months, the PHA will notify the family in writing of the determination within 10 business days of the date of the determination. The notice will state that the family will be charged the alternative non-public housing rent in accordance with PHA continued occupancy policies and HUD regulations and provide the family's new rent amount.</p> <p>The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and the PHA no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The PHA will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays the PHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income</p>	<p><b>Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]</b></p> <p><u>Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination,</u> , even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.</p> <p><u>If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.</u> Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.</p> <p><u>MHA Policy</u></p> <p>If a family's income exceeds the applicable over-income limit for 24 consecutive months, the PHA will notify the family in writing of the determination within 10 business days of the date of the determination. The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative non-public housing rent in accordance with PHA continued occupancy policies and HUD regulations and provide the family's new rent amount.</p> <p>The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and the PHA no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure</p>
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	<p>family was required to execute the new lease. Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. The non-public housing over-income lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the PHA may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.</p> <p>Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the PHA in accordance with HUD regulations. The PHA will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.</p>	<p>to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The PHA will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays the PHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.</p> <p>Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. The PHA will not provide such families with hearing or grievance rights.</p> <p>The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the PHA may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.</p> <p>Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the PHA in accordance with HUD regulations. The PHA will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.</p> <p>If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program.</p>
14-(23-27)		
15-10	<p>EXHIBIT 14-1: SAMPLE GRIEVANCE PROCEDURE Definitions applicable to the grievance procedure [24 CFR 966.53]</p> <p>A. <b>Grievance:</b> Any dispute a tenant may have with respect to MHA action or failure to act in accordance with the individual tenant’s lease or MHA regulations that</p>	<p><u>EXHIBIT 14-1: GRIEVANCE PROCEDURE</u> <u>Definitions applicable to the grievance procedure [24 CFR 966.53]</u> <u>(Revised)</u></p> <p>I. <u>Introduction</u> <u>Public housing tenants have the right to request a grievance</u></p>

<p>adversely affects the individual tenant’s rights, duties, welfare, or status.</p> <p><b>B. Complainant:</b> Any tenant (as defined below) whose grievance is presented to the MHA or at the project management office in accordance with the requirements presented in this procedure.</p> <p><b>C. Elements of due process:</b> An eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:</p> <ul style="list-style-type: none"> <li>i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction</li> <li>ii. Right of the tenant to be represented by counsel</li> <li>iii. Opportunity for the tenant to refute the evidence presented by the MHA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense that the tenant may have</li> <li>iv. A decision on the merits of the case</li> </ul> <p><b>D. Hearing officer:</b> An impartial person or persons selected by the MHA other than the person who made or approved the decision under review, or a subordinate of that person. Such individuals do not need legal training.</p> <p><b>E. Tenant:</b> The adult person (or persons other than a live-in aide) who resides in the unit and who executed the lease with the MHA as lessee of the dwelling unit, or if no such person now resides in the unit, who resides in the unit and who is the remaining head of the household of the tenant family residing in the dwelling unit.</p> <p><b>F. Resident organization:</b> An organization of residents, which also may include a resident management corporation.</p> <p><b>G. Applicability of this grievance procedure [24 CFR 966.51]</b> In accordance with the applicable federal regulations (24</p>	<p><u>hearing for any MHA action or failure to act in accordance with the tenant’s lease.</u></p> <p><u>Grievance procedures do not apply in the following circumstances:</u></p> <ul style="list-style-type: none"> <li>A. <u>Disputes between tenants not involving the MHA or class grievances [24 CFR 966.51(b)].</u></li> <li>B. <u>The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the MHA’s Board of Commissioners [24 CFR 966.51(b)].</u></li> <li>C. <u>When the MHA is in a HUD-declared due process state, HUD allows the MHA to exclude from the MHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:</u> <ul style="list-style-type: none"> <li>i. <u>Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the MHA;</u></li> <li>ii. <u>Any violent or drug-related criminal activity on or off such premises; or</u></li> <li>iii. <u>Any criminal activity that resulted in felony conviction of a household member [24 CFR 966.51(a)(2)].</u></li> </ul> </li> </ul> <p><b>II. Definitions [24 CFR 966.53]</b></p> <ul style="list-style-type: none"> <li>A. <u>Grievance: Any dispute a tenant may have with respect to MHA action or failure to act in accordance with the individual tenant’s lease or MHA regulations that adversely affects the individual tenant’s rights, duties, welfare, or status.</u></li> <li>B. <u>Complainant: Any tenant (as defined below) whose grievance is presented to the MHA or at the project management office in accordance with the requirements presented in this procedure.</u></li> </ul>
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<p>CFR 966.50), this grievance procedure is applicable to all individual grievances (as defined in Section I above) between the tenant and the MHA with the following exception of disputes between tenants not involving the MHA or class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the MHA's Board of Commissioners [24 CFR 966.51(b)]. This grievance procedure is incorporated by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)]. Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments will be considered by the MHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].</p> <p><b>Informal settlement of a grievance [24 CFR 966.54]</b> Any grievance must be personally presented, either orally or in writing (including email), to the MHA's central office or the management office of the development in which the complainant resides <b>within 10 days after the grievable event.</b></p> <p>Grievances related to complaints about operations matters that are received by the MHA's central office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Civil Rights Administrator or Director of Operations.</p> <p>As soon as the grievance is received, it will be reviewed by the management office of the development or the Civil Rights Administrator (if applicable) to be certain that neither of the exclusions in paragraphs II.A or II.B above applies to the grievance. Should one of the exclusions apply, the</p>	<p>C. <u>Elements of due process: An eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:</u></p> <ul style="list-style-type: none"> <li>i. <u>Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction</u></li> <li>ii. <u>Right of the tenant to be represented by counsel</u></li> <li>iii. <u>Opportunity for the tenant to refute the evidence presented by the MHA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense that the tenant may have</u></li> <li>iv. <u>A decision on the merits of the case</u></li> </ul> <p>D. <u>Hearing officer: An impartial person or persons selected by the MHA other than the person who made or approved the decision under review, or a subordinate of that person. Such individuals do not need legal training.</u></p> <p>E. <u>Tenant: The adult person (or persons other than a live-in aide) who resides in the unit and who executed the lease with the MHA as lessee of the dwelling unit, or if no such person now resides in the unit, the person who resides in the unit and is the remaining head of the household of the tenant family residing in the dwelling unit.</u></p> <p>F. <u>Resident organization: An organization of residents, which also may include a resident management corporation.</u></p> <p><b>III.</b> <u>This grievance procedure [24 CFR 966.51] This grievance procedure is included by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)]. Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, explaining the proposed changes and providing an opportunity to present written comments. Comments will be considered by the MHA before any revisions are made to the grievance procedure</u></p>
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<p>complainant will be notified in writing that the matter raised is not subject to the MHA’s grievance procedure with the reason specified.</p> <p>If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time <b>within 10 business days</b> to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement, the complainant will present the grievance and the person in charge of the management office or the Civil Rights Administrator will attempt to settle the grievance to the satisfaction of both parties.</p> <p><b>Within five business days</b> following the informal discussion, the MHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion that must specify the names of the participants, the dates of meeting, the nature of the proposed disposition of the complaint, and the specific reasons therefore, and will specify the procedures by which a formal hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this summary will also be placed in the tenant’s file.</p> <p><b>Formal grievance hearing</b></p> <p>If the complainant is not satisfied with the settlement arrived at in the informal settlement, the complainant must submit a written request for a hearing to the management office of the development where the tenant resides <b>no later than five business days after the summary of the informal hearing is received.</b></p> <p>The written request must specify:  The reasons for the grievance; and  The action of relief sought from the MHA</p> <p><b>Within 10 days of receiving the written request for a hearing,</b> the hearing officer will schedule and sent written notice of hearing to both the complainant and the MHA.</p> <p><b>Selecting the hearing officer</b></p>	<p><u>[24 CFR 966.52(c)].</u></p> <p><b>IV. <u>Informal settlement of a grievance [24 CFR 966.54]</u></b>  <u>Any grievance request must be personally presented, either orally or in writing (including email), to the MHA’s central office or the management office of the development in which the tenant resides within 10 days after the violation.</u>  <u>As soon as the grievance request is received, it will be reviewed by the MHA to ensure it meets the requirements for a grievance hearing. If the tenant is not entitled to a grievance, the MHA will notify the tenant that they may instead seek judicial review and the procedures for requesting such a review [24 CFR 966.4(1)(3)(i)(C)(v)(B)].</u>  <u>Otherwise, within 10 business days, the tenant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed and settled without a hearing. At the informal settlement, the tenant will present their grievance.</u>  <u>Within five business days following the informal settlement, the MHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion. The summary will specify the names of the participants; the date of the meeting; the nature of the proposed resolution of the complaint, with specific reason(s); and will specify the procedures by which a formal hearing under this procedure may be obtained if the tenant is not satisfied [24 CFR 966.54]. A copy of this summary will also be placed in the tenant’s file.</u></p> <p><b>V. <u>Requesting a formal grievance hearing</u></b></p> <p><u>If the tenant is not satisfied with the outcome of the informal settlement, the tenant must submit a written request for a hearing to the management office of the development where the tenant lives no later than five business days after receiving the summary of the informal settlement.</u></p> <p><u>The written request must specify the reasons for the request and the action or relief sought from the MHA.</u></p>
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<p>A grievance hearing will be conducted by a single impartial person appointed by the MHA as described below: The hearing officer will be appointed directly by the executive director.</p> <p>A. The hearing officer will be a staff member who did not make or approve the decision under review and who is not a subordinate of such persons. If the designated staff member (such as the program manager) was involved in the decision or is a subordinate of such person, an alternate hearing officer will be selected.</p> <p>B. The MHA may select designated staff members who were not involved in the decision under review in certain circumstances, such as those involving discrimination claims or denials of requests for reasonable accommodations. The MHA's method for selecting a hearing officer will be inserted into the lease.</p> <p><b>Scheduling hearings [24 CFR 966.56(a)]</b> When a complainant submits a timely request for a grievance hearing, the MHA will immediately appoint an impartial hearing officer to schedule the hearing within the following 10 business days. Once the hearing officer has scheduled the hearing, the hearing officer will send written notice of the hearing to both the complainant and the MHA. Notice to the complainant will be in writing, either personally delivered to the complainant, or sent by mail or email, return receipt requested. The written notice will specify the time, place, and procedures governing the hearing. If the hearing will be held remotely, the MHA will also include information on the remote hearing process.</p> <p><b>Procedures governing the hearing [24 CFR 966.56]</b> The hearing will be held before a hearing officer as</p>	<p><b>VI. <u>Selecting the hearing officer</u></b> <u>A grievance hearing will be conducted by an impartial person appointed by the MHA as described below:</u></p> <p>J. <u>The hearing officer will be appointed directly by the executive director.</u></p> <p>K. <u>The hearing officer will be someone who did not make or approve the decision under review and who is not a subordinate of such persons [24 CFR 066.54(e)].</u></p> <p>L. <u>The MHA's method for selecting a hearing officer will be included in the lease [24 CFR 966.54(e)].</u></p> <p><b>VII. <u>Scheduling hearings [24 CFR 966.56(a)]</u></b> <u>When a tenant submits a timely request for a grievance hearing, the MHA will immediately appoint an impartial hearing officer. Once the hearing has been scheduled, the tenant will receive written notice of the hearing, sent by mail or email, return receipt requested.</u> <u>Within 10 days of receiving the written request, the hearing will be scheduled. The tenant, MHA, and hearing officer will be notified in writing of the date, time and location of the hearing. If the hearing will be held remotely, the MHA will also include information on the remote hearing process.</u> <u>The tenant may request to reschedule a hearing once. Should the tenant need to reschedule a second time, they may only do so for good cause, or if needed as a reasonable accommodation for a person with disabilities. <i>Good cause</i> is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least one day prior to the hearing date.</u></p> <p><b>III. <u>Procedures governing the hearing [24 CFR 966.56]</u></b> <u>The hearing will be held before a hearing officer as described above in Section VI. The tenant will be afforded a fair hearing, which will include:</u></p>
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described above in Section V. The complainant will be afforded a fair hearing, which will include:

The opportunity to examine before the hearing any MHA documents, including records and regulations, that are directly relevant to the hearing.

The tenant is allowed to copy any such document at no cost to the tenant. If the MHA does not make the document available for examination upon request by the complainant, the MHA may not rely on such document at the grievance hearing.

The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.

The right to a private hearing unless the complainant requests a public hearing.

The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the MHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the MHA or project management relies.

A decision based solely and exclusively upon the fact presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The MHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

The complainant or the MHA may arrange in advance for a transcript of the hearing at the expense of the party making the arrangement. Any interested party may purchase a copy of the transcript [24 CFR 966.56(e)].

The MHA must provide reasonable accommodation for persons with disabilities to participated in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant that is required under this procedure must

A. The opportunity to examine any MHA documents before the hearing, including records and regulations, that are directly relevant to the hearing.

The tenant must request to view and copy MHA documents relevant to the hearing by noon of the day before the hearing.

The tenant is allowed to copy any such document at no cost to the tenant.

If the MHA does not make the document available for examination upon request by the tenant, the MHA may not rely on such document at the grievance hearing.

B. The right to be represented by counsel or any other person chosen as the tenant's representative, at the tenant's expense, and to have such person make statements on the tenant's behalf.

C. The right to a private hearing unless the tenant requests a public hearing.

D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the MHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the MHA or project management relies.

E. A decision based solely and exclusively upon the facts presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The MHA and the tenant must be given the opportunity to present oral or documentary evidence that is relevant to the facts and issues raised, and to question any witnesses.

The hearing decision will be based on the preponderance of the evidence, defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

The tenant or the MHA may arrange in advance for a transcript

be in an accessible format [24 CFR 966.56(f)]. The MHA must comply with HUD's requirements regarding limited English proficiency as specified in "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons," issued January 22, 2007, and available at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq).

**Remote Hearings**

The MHA has the authority to require that hearings be conducted remotely in certain situations.

**Failure to appear at the hearing**

If the complainant or MHA fails to appear at the hearing, the hearing officer may make a determination to postpone the hearing or make a determination that the complainant has waived their right to a hearing.

Both the complainant and the MHA must be notified of the determination by the hearing officer. A determination that the complainant has waived their right to a hearing will not constitute a waiver of any right the complainant may have to contest the MHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

**Decision of the hearing officer [24 CFR 966.57]**

The hearing officer will prepare a written decision together with the reasons for the decision after the hearing. A copy of the decision will be sent to the complainant and the MHA. The MHA will retain a copy of the decision in the tenant's file.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date before reaching a decision. If the family misses a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence

or recording of the hearing at the expense of the party making the arrangement.

The MHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The MHA must comply with HUD's requirements regarding limited English proficiency (LEP). The tenant has the right to request competent oral interpretation, free of charge. LEP requirements can be found at:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq](https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-faq)

**IX. Remote Hearings**  
The MHA has the authority to require that hearings be conducted remotely in certain situations.

**X. Failure to appear at the hearing**  
If the tenant does not arrive within 15 minutes of the scheduled time, it will be considered a failure to appear, which means they have given up their right to a hearing.

Both the tenant and the MHA must be notified of the determination by the hearing officer. A determination that the tenant has waived their right to a hearing will not constitute a waiver of any right the tenant may have to contest the MHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

**XI. Decision of the hearing officer [24 CFR 966.57]**  
The hearing officer will prepare a written decision together with the reasons for the decision within 10 business days after the hearing. A copy of the decision will be sent to the tenant and the MHA.  
The MHA will retain a copy of the decision in the tenant's file.  
The hearing officer may ask the family for additional

	<p>presented. The decision of the hearing officer will be binding on the MHA unless the MHA's Board of Commissioners determines within a reasonable time and notifies the complainant of its determination that:</p> <p>The grievance does not concern MHA action or failure to act in accordance with or involving the complainant's lease or MHA regulations, which adversely affect the complainant's rights, duties, welfare, or status; or</p> <p>The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the MHA. When the MHA considers the decision of the hearing officer to be invalid due to either of the reasons stated above, it will present the matter to the MHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.</p> <p>A decision by the hearing officer or Board of Commissioners in favor of the MHA or which denies the relief requested by the complainant in whole or in part will not constitute a waiver of nor affect in any way the rights of the complainant to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].</p>	<p><u>information and/or might adjourn the hearing in order to reconvene at a later date before reaching a decision. If the family misses a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented. The decision of the hearing officer will be binding on the MHA unless the MHA's Board of Commissioners determines within a reasonable time and notifies the tenant of its determination that:</u></p> <p>A. <u>The grievance does not concern MHA action or failure to act in accordance with or involving the tenant's lease or MHA regulations, which adversely affect the tenant's rights, duties, welfare, or status; or</u></p> <p>B. <u>The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the MHA.</u></p> <p><u>When the MHA considers the decision of the hearing officer to be invalid for either of the reasons stated above, it will present the matter to the MHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board will have 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the tenant within 10 business days of this decision.</u></p> <p><u>A decision by the hearing officer or Board of Commissioners in favor of the MHA or which denies the relief requested by the tenant, in whole or in part, will not constitute a waiver of nor affect in any way the tenant's right to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].</u></p>
16-7	<p><b>15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE</b></p> <p>The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.</p>	<p><b>(Revised) 15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE</b></p> <p>The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.</p>

	<p>PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.</p> <p><b>Repayment to the PHA</b></p> <p>The family is not required to repay an underpayment of rent if the error or program abuse is caused by PHA staff.</p> <p><b>PHA Reimbursement to Family</b></p> <p><u>MHA Policy</u></p> <p>The MHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.</p>	<p>PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.</p> <p><b>De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]</b></p> <p>The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.</p> <p>PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.</p> <p><u>PHA Policy</u></p> <p>The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.</p>
16-9	<p><b>16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2017-23]</b></p> <p><b>Establishing Flat Rents</b></p> <p>The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.</p> <p>For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.</p> <p>The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate that these FMRs do not reflect the market value of a particular property or unit.</p>	<p><b>16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2022-33]</b></p> <p><b>Establishing Flat Rents</b></p> <p>The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.</p> <p>For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.</p> <p>The 2015 Appropriations Act permits PHAs to <b>apply for</b> an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate, <b>through the submission of a market analysis</b>, that these FMRs do not reflect the market value of a particular</p>

	<p>In order to demonstrate the need for an exception flat rent, PHAs are required to submit a market analysis methodology that demonstrates the value of the unit. The PHA must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, PHAs must consider the following:</p> <ul style="list-style-type: none"> <li>- Location</li> <li>- Quality</li> <li>- Unit size</li> <li>- Unit type</li> <li>- Age of the unit</li> <li>- Amenities at the property and in immediate neighborhood</li> <li>- Housing services provided</li> <li>- Maintenance provided by the PHA</li> <li>- Utilities provided by the PHA and/or landlord for (comparable units in the market study)</li> </ul> <p>The PHA must provide a corresponding key explaining the calculations used for determining the valuation for each factor. HUD published a Flat Rent Market Analysis tool on August 22, 2018, which includes a rent adjustment guide, a market rent comparison guide, and a rent adjustment worksheet to aide PHAs in requesting exception flat rents.</p> <p>PHAs must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2022-33.</p> <p>PHAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.</p>	<p>property or unit <b><u>and HUD agrees with the PHA's analysis. The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."</u></b></p> <p>PHAs must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH <b><u>2022-33</u></b>.</p> <p>PHAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.</p>
<p>16-23,24</p>	<p style="text-align: center;"><b>PART III: FAMILY DEBTS TO THE PHA</b></p> <p><b>16-III.A. OVERVIEW</b></p> <p><u>MHA Policy</u></p> <p>When an action or inaction of a resident family results in the underpayment of rent or other amounts, the PHA holds the family liable to return any underpayments to the PHA.</p> <p>The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover</p>	<p style="text-align: center;"><b>PART III: FAMILY DEBTS TO THE PHA</b></p> <p><b>16-III.A. OVERVIEW</b></p> <p><u>MHA Policy</u></p> <p>When an action or inaction of a resident family results in the underpayment of rent or other amounts, the PHA holds the family liable to return any underpayments to the PHA.</p> <p>The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments.</p>

	underpayments.	
	<p style="text-align: center;"><b>PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY</b></p> <p><b>16-VII.A. OVERVIEW</b> The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.</p> <p>In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, “Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).</p> <p><b>16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]</b> As used in VAWA:</p> <ul style="list-style-type: none"> <li>• The term <i>affiliated individual</i> means, with respect to a person: <ul style="list-style-type: none"> <li>- A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or</li> <li>- Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.</li> </ul> </li> </ul>	<p style="text-align: center;"><b>PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY (Revised)</b></p> <p><b>16-VII.A. OVERVIEW</b> The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA. <b>Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD’s recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.</b></p> <p>In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, “Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).</p> <p><b>16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13] (Revised)</b> As used in VAWA:</p> <ul style="list-style-type: none"> <li>• The term <i>affiliated individual</i> means, with respect to a person: <ul style="list-style-type: none"> <li>- A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or</li> <li>- Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.</li> </ul> </li> </ul>

<ul style="list-style-type: none"> <li>• The term <i>bifurcate</i> means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.</li> <li>• The term <i>dating violence</i> means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: <ul style="list-style-type: none"> <li>- The length of the relationship</li> <li>- The type of relationship</li> <li>- The frequency of interaction between the persons involved in the relationship</li> </ul> </li> <li>• The term <i>domestic violence</i> includes felony or misdemeanor crimes <del>of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.</del></li> <li>• The term <i>sexual assault</i> means: <ul style="list-style-type: none"> <li>- Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent</li> </ul> </li> <li>• The term <i>stalking</i> means: <ul style="list-style-type: none"> <li>- To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The term <i>bifurcate</i> means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.</li> <li>• The term <i>dating violence</i> means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: <ul style="list-style-type: none"> <li>- The length of the relationship</li> <li>- The type of relationship</li> <li>- The frequency of interaction between the persons involved in the relationship</li> </ul> </li> <li>• The term <i>domestic violence</i> includes felony or misdemeanor crimes <b><u>committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:</u></b> <ul style="list-style-type: none"> <li>- <b><u>The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim</u></b></li> <li>- <b><u>A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner</u></b></li> <li>- <b><u>A person with whom the victim shares a child in common</u></b></li> <li>- <b><u>A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction</u></b></li> </ul> </li> <li>• <b><u>The term <i>economic abuse</i> means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:</u></b></li> </ul>
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		<ul style="list-style-type: none"> <li>- <u>Restrict a person's access to money, assets, credit, or financial information</u></li> <li>- <u>Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage</u></li> <li>- <u>Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty</u></li> <li>• The term <i>sexual assault</i> means: <ul style="list-style-type: none"> <li>- Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent</li> </ul> </li> <li>• The term <i>stalking</i> means: <ul style="list-style-type: none"> <li>- To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.</li> </ul> </li> <li>• <u>The term <i>technological abuse</i> means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:</u> <ul style="list-style-type: none"> <li>- <u>Internet enabled devices</u></li> <li>- <u>Online spaces and platforms</u></li> <li>- <u>Computers</u></li> <li>- <u>Mobile devices</u></li> <li>- <u>Cameras and imaging programs</u></li> <li>- <u>Apps</u></li> <li>- <u>Location tracking devices</u></li> <li>- <u>Communication technologies</u></li> <li>- <u>Any other emergency technologies</u></li> </ul> </li> </ul>
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