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GENERAL NEWS

HUD Announces Changes to the Calculation of Section 8 Income Limits

Today in the *Federal Register*, the Department of Housing and Urban Development ([HUD](#)) published a [notice](#) titled "Changes to the Methodology Used for Calculating Section 8 Income Limits Under the United States Housing Act of 1937." According to the summary:

The United States Housing Act of 1937 provides for assisted housing for "low-income families" and "very low-income families." These designations are defined as percentages of area median family income and are known as income limits. Since FY 2010, HUD has limited the increase from year to year in its income limits as the higher of five percent or twice the percentage change in national median family income. This notice adds an express stipulation that the annual income limit increase may never exceed ten percent. HUD further clarifies the definition of national median family income for purposes of setting income limits.

HUD issues updated area median family income estimates and Section 8 income limits annually. Since FY 2010, HUD has limited the amount that the income limit for an area could increase or decrease. Prior to FY 2010, income limits could not decrease at all and there was no limitation on annual increases. Under the current methodology, HUD does not allow income limits to decrease by more than five percent from the prior year's level and does not allow income limits to increase by more than the higher of five percent or twice the change in the national median family income.

Today's notice announces a change to the FY 2010 criteria for determining the maximum possible increase in income limits. For FY 2024 income limits and thereafter, HUD intends to set the maximum possible increase in income limits at the higher of five percent or twice the change in national median family income, with an absolute cap of 10 percent. According to HUD, the following are the reasons for these limits on increases and decreases:

- HUD's calculation of area median family income estimates is based on survey data from the Census Bureau's American Community Survey (ACS). Survey estimates of income are subject to measurement error and may fluctuate from year to year even when the true median income for a given area is unchanged. The limits on increases and decreases ensure that outlier estimates of area median family income changes do not cause undue administrative burden or negatively impact program participants through wildly fluctuating income limit levels.
- Several programs, most notably the Low-Income Housing Tax Credit (LIHTC), use Section 8 income limits to determine eligibility and rent levels for low-income households. By limiting decreases in income limits to no more than five percent, HUD helps ensure the financial viability of affordable housing properties. By limiting increases in income limits, HUD decreases the burden on low-income households who may face large rent increases resulting from higher income limits.

Additionally, HUD is formally establishing the definition of "national median family income" used in the calculation of the cap in income limit increases. For FY 2024 and thereafter, HUD intends to continue calculating the cap on income limit increases using the most recent unadjusted estimates of median family income provided by the Census Bureau via the ACS. Therefore, for FY 2024 income limits, the cap would be based on the change in national median family income from ACS 2021 to ACS 2022. "By continuing to remove inflation adjustments from its cap calculation, HUD is keeping the calculation in line with its purpose of capturing trends in median family income data addressing survey volatility rather than volatility introduced by accelerating or decelerating inflation."

Due date for comments is **February 8, 2024**.

HUD Enters VCA with Housing Provider to Increase Housing Opportunity

In a [press release](#) Monday, the Department of Housing and Urban Development ([HUD](#)) announced that it has entered a voluntary compliance agreement ([VCA](#)) with a 558-unit federally subsidized property in New York resolving a compliance review concerning nondiscrimination in marketing and tenancing procedures. The property provides affordable subsidized units through the Section 8 program for families with a member who is 62 or older or has a disability, including otherwise qualified families with children.

According to the announcement, the agreement arises from a compliance review that was conducted by HUD's Office of Fair Housing and Equal Opportunity ([FHEO](#)) under Title VI and Section 504. FHEO opened the review based on information indicating disproportionately low participation rates of Black and Hispanic residents relative to the housing market area over decades, extending to prior owners of the property. The review sought to ensure eligible persons were not discriminated against in opportunities to learn about, apply to, and reside in HUD subsidized housing on the basis of race, color or national origin. In particular, the review revealed the property's occupancy standard restricted occupancy of studio units to a family size of one and one-bedroom units to a family size of two, contributing to denials based on race and deterring families as small as two persons from applying to the property. FHEO expanded the review to include Section 504 when the investigation revealed the property had a practice of denying families with heads of households under 62 years of age, without considering whether the household was otherwise eligible to apply to and reside in the property on the basis of disability.

HUD enforces the [Fair Housing Act](#), which prohibits discrimination because of race, color, national origin, religion, sex, familial status, and disability. HUD also enforces other federal civil rights laws, including [Title VI of the Civil Rights Act of 1964](#) which prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. [Section 504 of the Rehabilitation Act of 1973](#) prohibits discrimination on the basis of disability in programs and activities receiving federal financial assistance.

The agreement provides a fund in the amount of \$510,000 to compensate individuals who were either denied due to the restrictive occupancy policy, or individuals with disabilities who were improperly denied housing. In addition, the agreement requires the creation of a new waitlist after robust marketing to those least likely to apply, committing a minimum of \$10,000 towards advertising, outreach, and website development; affirmative agreement not to adopt an elderly preference and to consider equally for tenancy otherwise qualified applicants with disabilities and applicants aged 62 or over; and revising the property's occupancy policy to be no more restrictive than local ordinance. The agreement does not constitute admissions by the housing providers or evidence of a final determination by HUD of violations of Title VI, Section 504, or any other laws.



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