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GENERAL NEWS

HUD Publishes HOTMA Final Rule in the *Federal Register*

On January 31, we reported that the Department of Housing and urban Development (HUD) released a prepublication copy of the final rule implementing Sections 102, 103, and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). These sections make extensive changes to the United States Housing Act of 1937, particularly those affecting income calculation and reviews. Today HUD has officially published the final rule in the *Federal Register.* Below are some highlights:

Section 102

- It applies mainly to public housing, HCV, and PBRA, but some of its provisions also apply to HOME, HTF, and HOPWA.
- It extensively modifies the definition of annual income.
- It makes changes to how income from financial aid and scholarships is determined.
- It creates a 10 percent adjusted income increase/decrease threshold for conducting interim reexaminations. In most cases, it requires that increases in earned income are not processed until the next annual reexamination.
- It allows for the use of annual income determinations from other programs.
- It increases standard deductions for families with a head, cohead, or spouse who is elderly or a person with a disability.
- It codifies additional income and asset exclusions, including amounts received from Medicaid or other state/local programs meant to keep a family member with a disability living at home.
- It increases the allowance for unreimbursed health and medical care expenses from three percent of annual income to 10 percent, phased in over two years.
- It raises the imputed asset threshold from $5,000 to $50,000, incentivizing families to build wealth without imputing income on those assets.
- It provides hardship relief for expense deductions, lessening the impact of the increased threshold for medical expenses.

Section 103

- It imposes continued program participation limits for families exceeding the statutory income limitation in the public housing program, also known as the “over-income” provision.
- In doing so, it modifies the definition of Total Tenant Payment (TTP) and changes requirements regarding preferences, family choice of rents, reexaminations, automatic lease renewals, and terminations.

Section 104

- It applies to public housing, HCV, PBRA, HOME, HTF, and HOPWA.
- It imposes a $100,000 asset limit for eligibility and continued assistance. Families are also ineligible for assistance if they own real property suitable for occupancy. PHAs have the option of delaying enforcement/termination for up to six months if the family is over the asset threshold at the time of annual reexamination.
- It implements deductions and exceptions for certain investments. Retirement accounts and educational savings accounts will not be considered a net family asset.
- It allows self-certification of net assets if estimated to be at or below $50,000.
- It requires that applicants for and recipients of assistance provide authorization to PHAs to obtain financial records.
- It changes the requirements for the signing of consent forms by family members.
- It removes the requirement to run the EIV Income Report at a family’s interim recertification.

HOTMA impacts rental assistance programs administered by HUD’s Offices of Public and Indian Housing (PIH), Multifamily Housing (MFH), and Community Development and Planning (CPD), including the Housing Choice Voucher (HCV), Public Housing, Section 8 Project-Based Rental Assistance (PBRA), Section 202/811, HOPWA, HOME, and the Housing Trust Fund programs.

Changes related to Section 103 (over-income provision) will become effective on **March 16, 2023** (30 days after publication in the *Federal Register).* PHAs have an additional 120 days after the effective date to fully implement the changes. Changes related to Sections 102 and 104 will be effective **January 1, 2024**. For further information, refer to the final rule and the HOTMA Resources webpage.

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