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HCV Program & Occupancy Updates



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CARES Act Waivers & Provisions

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Notices

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PIH Notice 2020-05

PIH Notice 2020-08 (Administrative Fees)

PIH Notice 2020-13 (Revision 1)

PIH Notice 2020-17 (HAP)

PIH Notice 2020-20 (Mod-Rehab)

PIH Notice 2020-22 (Mainstream)

PIH Notice 2020-26 (RAD)

PIH Notice 2020-33 (Revision 2)

PIH Notice 2021-14 (Revision 3)

What is the CARES Act?

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The Coronavirus Aid, Relief and Economic Security (CARES) Act



Established on 03/27/2020 to respond to COVID

HUD Waivers

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- ▶ PIH Notice 2020-05 was HUD's first notice after implementation of the CARES Act
- ▶ "Pursuant to the authority provided under the Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136), HUD is waiving and establishing alternative requirements for numerous statutory and regulatory requirements for the Public Housing program, Housing Choice Voucher (HCV) program, Indian Housing Block Grant (IHBG) program, and Indian Community Development Block Grant (ICDBG) program."

Use of Waivers

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PHA
discretion

Majority of
waivers
required
no HUD
notification
nor approval

Written
documentation

Owner and
Tenant/
Participant
notification
required

Period of
Availability

Waiver Terms

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SHORT-TERM

"provide PHAs with essential flexibilities when normal operations are severely disrupted."

Ended
07/31/2020

Extended to
12/31/2020 in PIH
Notice 2020-13

Extended to
06/30/2021 in PIH
Notice 2020-33

Extended to
12/31/2021 in PIH
Notice 2021-14*

Waiver Terms

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LONG-TERM

“permit PHAs to defer important but less critical functions to focus on their most vital responsibilities and effectively manage their transition back to normal operations.”

Ended 12/31/2020

Extended to
06/30/2021 in PIH
Notice 2020-33

Extended to
12/31/2021 in PIH
Notice 2021-14**

Waiver Terms

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UNIQUE DATES

“such as when the period of availability is dependent on a PHA’s fiscal year end date or based on a specific action or activity.”

Some were extended, some were not

The Waivers

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- ▶ PH and HCV-1 PHA 5-Year and Annual Plan
- ▶ PH and HCV-2 Family income and composition – delayed annual reexaminations
- ▶ PH and HCV-3 Annual Reexamination Income Verification
- ▶ PH and HCV-4 Interim reexaminations

The Waivers

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- ▶ PH and HCV-5 EIV System Monitoring
- ▶ PH and HCV-6 FSS Contract of Participation
- ▶ PH and HCV-7 Waiting List
- ▶ PH and HCV-8 Eligibility Determination: Income Verification
- ▶ PH and HCV-9 Social Security Number and Citizenship Verification

The Waivers

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- ▶ HQS-1 Initial inspection
- ▶ HQS-2: PBV Pre-HAP Contract Inspections, PHA acceptance of completed units
- ▶ HQS-3 Non-Life Threatening HQS - Initial Unit Approval
- ▶ HQS-4 Initial HQS - Alternative Inspections

The Waivers

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- ▶ HQS-5 Biennial Inspections
- ▶ HQS-6 Interim Inspections
- ▶ HQS-7 PBV Turnover Inspections
- ▶ HQS-8: PBV HAP Contract – HQS Inspections to Add or Substitute Units

The Waivers

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- ▶ HQS-9 HQS QC Inspections
- ▶ HQS-10 HQS Space and Security
- ▶ HQS-11 Homeownership HQS

The Waivers

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- ▶ HCV-1 Administrative Plan
- ▶ HCV-2 PHA Oral Briefing
- ▶ HCV-3 Term of Voucher - Extensions of Term
- ▶ HCV-4 PHA Approval of Assisted Tenancy
- ▶ HCV-5 Absence from unit

The Waivers

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- ▶ HCV-6 Automatic Termination of the HAP Contract
- ▶ HCV-7 Increase in Payment Standard
- ▶ HCV-8 Utility Allowance Schedule
- ▶ HCV-9 Homeownership Counseling
- ▶ HCV-10 FUP

The Waivers

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- ▶ HCV-11 Family Unification Program (FUP): Length of Assistance for Youth
- ▶ HCV-12 Family Unification Program (FUP): Timeframe for Referral
- ▶ HCV-13 Homeownership: Maximum Term of Assistance
- ▶ HCV-14 Mandatory Removal of Unit from PBV HAP Contract
- ▶ HCV-15 Project-Based Voucher (PBV) and Enhanced Voucher (EV) Provisions on Under-Occupied Units

The Waivers

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- ▶ 11b SEMAP
- ▶ 12a Form HUD 50058

The Waivers

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- ▶ 11b-1 SEMAP
- ▶ 11b-2 SEMAP

Admin Fees – Eligible Expenses

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1. Any currently eligible HCV (including mainstream voucher) administrative costs during the period that the program is impacted by coronavirus; and
2. New coronavirus-related activities, including activities to support or maintain the health and safety of assisted individuals and families, and costs related to the retention and support of participating owners.

Admin Fees

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- ▶ Period of Availability
 - ▶ CY 2020 (FY 2020 funds may be used for CY 2020 allowable expenses)
- ▶ Track separately; cannot roll into UNP
 - ▶ Unused fund had to be remitted to HUD, so the idea was to use first for appropriate expenses

Reporting

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To ensure PHAs have the ability to report to HUD on these expenses, PHAs must track coronavirus revenue and expenses by creating coronavirus Profit and Loss (P&L) accounts.

Recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient.

Supplemental Funding

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- ▶ The supplemental HAP funding deadline was March 31, 2021 as stated in PIH Notice 2020-17.
- ▶ PIH Notice 2021-10 – Funding Notice
 - ▶ Most Set-Aside Funding application deadlines are May 14, 2020

Other COVID related updates

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- ▶ PIH Notice 2020-19 Rent Reasonableness – Defining Assisted Units for the Housing Choice Voucher and Project-Based Voucher Programs
 - ▶ Subsequently Rent Reasonableness Chapter of HCV Guidebook

PIH Notice 2021-05

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Use of Shared Housing is the HCV Program

Types of Shared Housing

For-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company.

PHA Considerations

For-profit shared housing matching (such as roommates or single-family homes) and online sites which charge a fee for their matching services.

Non-profit shared housing matching services.


Potential roadblocks

Local and State laws and guidelines

HAP Payment restrictions

HQS





Remote Video Inspections (RVI)

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Regulation

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- ▶ PIH Notice 2020-31 Remote Video Inspections for Housing Choice Voucher Program
- ▶ PIH Notice 2017-20 HOTMA – HQS Implementation Guidance
- ▶ 24 CFR 982.401 - 982.407

What is RVI?

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- ▶ RVI is a way to use technology to complete an HQS inspection without the inspector being on-site.
- ▶ It helps PHAs overcome inspection challenges now, in a time of global pandemic, and in the future.
- ▶ As things transpire, HUD will share additional guidance and best practices.

Why RVI?

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- ▶ Health and safety of residents, landlords, and inspectors
 - ▶ Encourages PHAs to prioritize this

Four Phases

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Administrative
Preparation

Pre-
Inspection
Planning

Performing
the
Inspection

Post-
Inspection

Administrative Prep

33

- ▶ Evaluate whether incorporating technology into the inspection process requires an update of your Admin Plan to provide notice of the purpose and benefits of utilizing RVIs.
- ▶ Determine if the use of technology as part of the inspection process constitutes a significant amendment to the Annual Plan.

Pre-Inspection Planning

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- ▶ Assess Equipment Needs.
 - ▶ Consider whether the party performing the RVI has the equipment, and if not, how it is to be provided.

Pre-Inspection Planning Scheduling RVI

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- ▶ Tenant or the landlord/property manager should attend the RVI inspection. Additionally, the RVI tenant notifications should explain:
 - ▶ RVI
 - ▶ Three rationale for RVI implementation, and
 - ▶ provide a contact number and email address for tenants to raise questions or concerns.
- ▶ Ensure the inspector and designated proxy successfully completes the free online Lead based Paint Visual Assessment Training Course, for properties built before 1978 where a child under 6 resides or will reside.
 - ▶ Persons trained are to email the certificate of completion to the inspector. The inspector adds the certificate of completion to the inspection file.

Performing the Inspection

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- ▶ Provide adequate privacy safeguards for the protection of Personally Identifiable Information (PII).
- ▶ Choose a proxy for the inspection.
- ▶ Once the inspection is scheduled, the HQS inspector uses the PHA's designated streaming web-based platform to contact the proxy.
 - ▶ The HQS inspector uses the same inspection form the PHA currently uses to record any deficiencies.

Proxy duties

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- ▶ The proxy can be the landlord, property representative, tenant, or any adult associated with this tenancy.
- ▶ The selection of the proxy is a mutual decision between the PHA, landlord, and tenant.
- ▶ The proxy follows the direction of the HQS inspector throughout the entire inspection process.

THE PROXY IS NOT PERFORMING THE INSPECTION, THE INSPECTOR IS

Proxy Notification

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- ▶ Notify the approved proxy in advance that participation in the RVI will involve:
 1. Determination of no smell of natural gas, Methane, or other noxious gas.
 2. Completion of the free online Lead based Paint Visual Assessment Training Course.
 3. Streaming the RVI (not recorded) considering a legal review may be needed to address possible PII concerns.
 4. Fully following directions of the inspector.
 5. Any additional items deemed necessary by the PHA.

Required Documents & Certifications

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▶ Proxy Certification

- ▶ Prior to the RVI, the PHA and impacted parties with legal possession of the unit should agree to use an RVI rather than an on-site inspection by PHA staff.
 - ▶ Occupied vs Unoccupied
 - ▶ No agreement = on-site inspection

Performing the Inspection

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1. Prior to starting, verify the unit on screen is the unit scheduled to be inspected. From outside the unit, confirm the address and street name.
2. Once confirmed, inspect the exterior of the unit (outside walls, roof, any exterior item inspectable including the yard) and adjoining properties.
3. Inspect all interior spaces, bedrooms, common areas, and tenant-accessed areas.

Performing the Inspection

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4. For a pre-1978 property, follow National and State LBP requirements for an HQS inspection.
 - A. Verify that the proxy completed the Lead based Paint Visual Assessment Training Course.
 - B. Exterior: Examine all sides of the structure, including but not limited to fences and outbuildings. Visually examine paint conditions of all siding, trim, windows, porches, steps, columns, and any other painted areas.
 - C. Interior: Review each room separately and visually examine paint conditions of walls, ceilings, steps, floors, doors, door frames, and windows, including window troughs.
 - D. For deteriorated paint (including cracked, chipped or otherwise damaged paint), document the amount of deterioration, indicating whether the scale is greater or less than the HUD de minimis amounts (24 CFR 35.1350(d)).

Performing the Inspection

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5. Generate notification letters to the landlord and/or tenant to communicate inspection results.
6. Schedule re-inspection, if needed, in accordance with the PHA/LBP policy.

Post-Inspection

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- ▶ Inspection passes
 - ▶ PHA follows Admin Plan/procedure, informs the tenant/landlord, and follows the process to
 - ▶ process HAP for initial inspection, or
 - ▶ approves inspection within their system.

Post-Inspection

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- ▶ Inspection fails
 - ▶ PHA follows Admin Plan/procedure and informs tenant/landlord of fail items
 - ▶ Include any follow-ups such as a reinspection/verification or requirement for Lead-Based Paint (LBP) clearance testing.

Post-Inspection

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- ▶ PHAs are encouraged to perform additional Quality Control (QC) inspections under the RVI process.
- ▶ RVI QC inspections are in addition to the five percent required under SEMAP indicator #5 unless SEMAP indicator #5 is waived by CARES Act Waivers or Provisions.

Required Notification

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- ▶ Submit a notification of intent to use RVI to RVI@hud.gov and use this same address for any questions or need for further information.

Considerations

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- ▶ How will your PHA supply physical equipment to the proxy?
- ▶ What if there are streaming problems?
 - ▶ Photos are not acceptable; must be live-streamed
- ▶ Do your procedures ensure consistency among inspectors and the proxy inspector?
- ▶ How will your PHA handle an inspection that cannot be conducted properly/as required?

Suggested Tool Considerations

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- ▶ Inspector
 - ▶ Laptop with large screen or desktop with large monitor
 - ▶ Practice run
 - ▶ Clear directions to use while directing the proxy
 - ▶ Systematic approach
 - ▶ Time and patience

Suggested Tool Considerations

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- ▶ Unit/Proxy
 - ▶ Good Wi-Fi or Cellular Connection
 - ▶ Tools that visually display/demonstrate subjective items
 - ▶ Acceptable tool to test smoke and carbon monoxide detectors
 - ▶ Clear instructions from inspector
 - ▶ Time and patience

CARES Act - HQS

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- ▶ PIH Notice 2020-05 issued on April 10, 2020
 - ▶ 11 HQS Waivers in this initial Waiver Notice
 - ▶ Had to be adopted during availability period
 - ▶ Short-term = 07/31/2020
 - ▶ Long-term = 12/31/2020
 - ▶ Some unique dates

CARES Act - HQS

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- ▶ PHA choice; some, all or none
- ▶ Keep written documentation
- ▶ No HUD notification nor approval necessary
- ▶ No Admin Plan changes necessary
- ▶ MUST notify residents and owners

CARES Act - HQS

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- ▶ Most HQS Waivers were short term (7/31/2020) or had unique dates
 - ▶ The majority of the waived inspection protocols had to be remedied by 10/31/2020, but...

CARES Act - HQS

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- ▶ PIH Notice 2020-13 issued on July 2, 2020
 - ▶ For any housing quality standards (HQS) provision that authorizes a PHA to rely upon an owner's certification as to the absence of life-threatening conditions, the PHA is now required to perform an inspection of the unit no later than 1 year from the date of the owner's certification, rather than no later than October 31, 2020.
 - ▶ For any PHA that employs biennial HQS inspections, the PHA is required to perform an inspection as soon as reasonably possible but no later than 1 year from the date on which the biennial inspection would have been required in the absence of a waiver, rather than no later than October 31, 2020.

CARES Act - HQS

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- ▶ PIH Notice 2020-13
 - ▶ Also required PHAs to post publicly, or otherwise make available to the public, a list of all waivers and alternative requirements the PHA chooses to apply in addition to notifying affected residents and owners.

CARES Act - HQS

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- ▶ PIH Notice 2020-33 issued on November 30, 2020
 - ▶ HQS-5: HQS Inspection Requirement: Biennial Inspections now provides the alternative requirement that, at a minimum, the PHA must require the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question.

Wrap Up

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- ▶ If waivers weren't adopted, should be doing inspections
- ▶ RVI is good alternative to keep everyone safe
 - ▶ Don't forget notification to HUD
- ▶ Do not have to use strictly during COVID





Remote Hearings & Briefings

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Notices

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- ▶ PIH Notice 2020-32
- ▶ PIH Notice 2020-33
 - ▶ Supersedes PIH Notice 2020-05 and PIH Notice 2020-13

Definitions

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Remote Briefing. Under this notice, a “remote briefing” refers to the oral briefing PHAs are required to provide to every new HCV program applicant (24 CFR 982.301(a)), including project-based voucher applicants (24 CFR 983.252(a)) and the TPV family briefing (as described in Section 2.f above. It also refers to the briefing PHAs are required to provide to every new Moderate Rehabilitation applicant (24 CFR 882.514(d)).

Definitions

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Remote Hearing. Under this notice, a “remote hearing” in public housing refers to the informal hearing for a denial of admission (24 CFR 960.208(a)), the informal settlement of a grievance for a participant (24 CFR 966.54) and the grievance hearing for a participant (24 CFR 966.56). In the HCV program, a “remote hearing” refers to the informal review for denial of assistance (24 CFR 982.554) and an informal hearing for a participant (24 CFR 982.555). In the Moderate Rehabilitation program, a “remote hearing” refers to the informal hearing for denial of assistance or termination of assistance (24 CFR 882.514(f)).

Effective communication

Reasonable Accommodation

Type of video conferencing system to use

Technical difficulties

Effective Communication

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Must ensure meaningful access to the HCV program to **all** persons



Persons with Disabilities



LEP Persons

Communication Considerations

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- ▶ Auxiliary Aides and Services
- ▶ Limited English Proficiency (LEP)
- ▶ Reasonable Accommodations

Video Conferencing Considerations

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- ✓ Host admin features
- ✓ Allows for easy and quick check-in
- ✓ Customization
- ✓ Screen share documents, websites, etc.
- ✓ Has a chat function or polling for attendees
- ✓ Record meetings and exchanges

Technical Barriers

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- ▶ Differing Technological Abilities
- ▶ Internet/Wi-Fi Issues
- ▶ Log-In Issues



Resolving Technology Barriers

Prior to Scheduling Briefing/Hearing

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- ▶ Test your system
- ▶ Secure a location
- ▶ Secure Host/Hearing Officer or Panel
- ▶ How to issue physical Briefing Packets
- ▶ How to issue discovery for Hearing
- ▶ PII
- ▶ No-Show Policy

Items to Address/Check

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- ▶ On the day of the Briefing/Hearing
 - ▶ Load presentation and test audio and visual
 - ▶ Mute attendees upon arrival
 - ▶ Monitor phone and email for technical attendees
 - ▶ Take attendance and remove any uninvited people

Briefing Specifics

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- ▶ An oral briefing is required for all new applicants to the HCV program (24 CFR 982.301(a)) and the PBV program (24 CFR 983.252(a)). A briefing is required for all new applicants to the Moderate Rehabilitation program (24 CFR 882.514(d)).
- ▶ Notice PIH-2013-27 requires PHAs to conduct a family briefing prior to obtaining a family's voluntary written consent to relinquish their right to tenant-based assistance for families electing to remain in a project with TPVs.

Future Remote Briefings

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- ▶ Regulation always stated “oral briefing.”
 - ▶ Never defined in-person vs virtual
- ▶ As PIH Notice 2020-33 deadlines approach, work toward updating Admin Plan
 - ▶ “include provisions to allow for use the of mail, electronic mail, webcast, and video call, as appropriate and as described in this notice.” (PIH Notice 2020-32)

Hearing Specifics

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- ▶ The PHA must provide an applicant an opportunity for an informal review of the PHA decision denying assistance to the applicant (24 CFR 982.554; 24 CFR 882.514(f)).
- ▶ The PHA must provide a participant an opportunity for an informal hearing if a participant contests the PHA’s determination of the family’s income, utility allowance, or unit size, or if the participant contests the PHA’s proposed termination of the participant’s assistance.

Due Process Consideration

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Pre-hearing Document Review

Document Copies
(Participant pays)

Documents not Made Available are Inadmissible

- Any relative documentation not in file cannot be used later for judicial proceedings.

Legal or Other Representation

Private unless Participant wants Public

Give any Evidence/Argument

Cross - Examination

Decision Only on Hearing Facts

Future Remote Hearings

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- ▶ As with Remote Briefings, your Admin Plan **must** be updated.
 - ▶ "include provisions to allow for use the of mail, electronic mail, webcast, and video call, as appropriate and as described in this notice." (PIH Notice 2020-32)

No Show Policies

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For Briefing

Late vs not at all

Notification

Effect on other attendees

For Hearing

Late vs not at all

Notification

Effect on process and outcome

Best Practices

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- ▶ Review voucher obligations with families at reexamination.
- ▶ Have PHA staff reach out directly to applicants/participants by phone before the hearing.
- ▶ Have PHA staff reach out directly to families by phone before and after the briefing.
- ▶ Consider the impact of families attending briefings remotely on other program functions.

HCV Guidebook

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- ▶ Terminations Chapter
- ▶ Informal Hearings and Reviews Chapter
 - ▶ Both still listed as "Coming Soon."

HCV Guidebook

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- ▶ Eligibility Determination and Denial of Assistance Chapter
 - ▶ New as of November 2019
 - ▶ Noted changes were simply corrections, not updated regulation
 - ▶ New look

Federal Registers & HCV HUD Page

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- ▶ Keep an eye out for new guidance. You may first see it show up in the Federal Register for a comment period before anything else.
- ▶ Check POST (PIH One-Stop Tool) regularly to stay updated.



Preparing for the HOTMA Final Rule

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Course Objectives

- 🎯 Brief history of HOTMA
- 🎯 Define the purpose of HOTMA
- 🎯 Discuss changes previously enacted
- 🎯 Discuss proposed changes recently introduced
- 🎯 Interact, discuss, and learn from each other!

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The Housing Opportunity Through
Modernization Act (**HOTMA**) was
signed into law by President Obama
on July 29, 2016.

HOTMA was enacted to:

Streamline and reform

Reduce homelessness

Expand opportunity

Improve quality of life

Reduce admin burdens





HUD began issuing initial implementation guidance on 10/24/2016, with the most recent proposed rule being published 9/17/2019.

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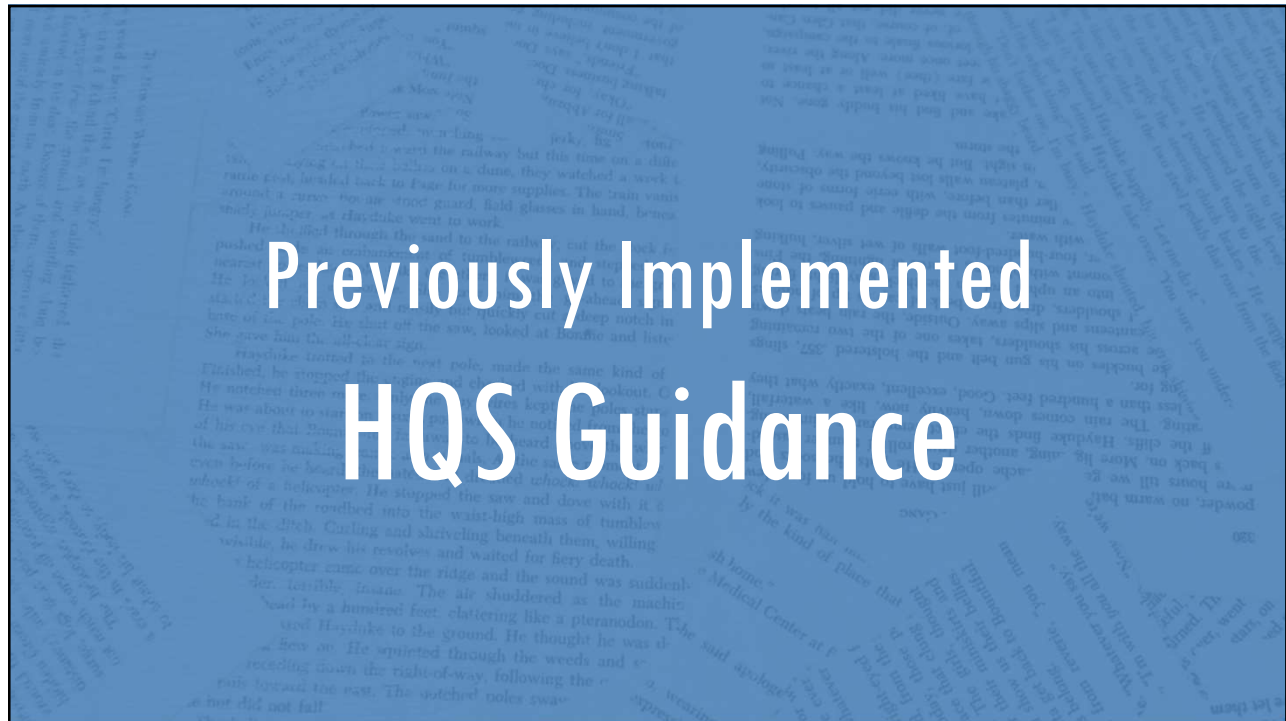
HOTMA Implementation History

Some provisions were effective upon enactment. HUD issued initial guidance in 2016, and followed up with clarifications in 2017 regarding PBV, HQS inspections, and manufactured housing.

HUD published its final implementation of the “over-income” limit. HUD’s notice provides information to PHAs on how to start the process for tracking and evicting “over-income” public housing families.

On 10/8/2020, HUD proposed another final rule codifying rule changes for the HCV and PBV programs previously implemented through notice guidance.

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PIH Notice 2017-20

- Issued October 27, 2017 (no expiration)
- Addresses HQS provisions of the Housing Opportunity Through Modernization Act
- Addresses the following:
 - NLT Provision
 - Alternate Inspections

Non-Life Threatening (NLT) Provision

- Approve HAP if unit fails with NLT deficiencies
- Optional
- Requirements
 - Admin Plan
 - Notice

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Non-Life Threatening (NLT) Provision

- HUD definitions of LT and NLT conditions
- Must use definitions if adopting this provision
- Documentation
- Notification to owners and tenants
 - For units that pass with NLT conditions:
 - Family choice - family can accept or decline
 - If family accepts, owner must correct NLT deficiencies

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Non-Life Threatening (NLT) Provision

- Process for approval of unit and executing HAP:
 - Family finds a unit → RFTA
 - PHA determines eligible unit
 - HQS passes or fails with NLT
 - Rent Reasonableness and family share calculations
 - Execute the lease and HAP contract

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Non-Life Threatening (NLT) Provision

- Housing Assistance Payments
 - HAP initially approved
 - Owner has 30 days to correct NLT conditions
 - HAP stopped until conditions addressed
 - Statutory
 - No extensions for this timeframe
 - Abatement period following 30 days — PHA policy

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Alternate Inspection Method

- To be eligible for use:
 - PHA must be able to obtain results
 - If based on a unit sample of units, unit in question must be included
 - HOME program, LIHEAP, or other HUD inspections

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Alternate Inspection Method

- Other methods
 - Must be approved by REAC
 - Approval must be prior to amending Admin Plan
 - Requests for approval must include:
 - Copy of the inspection
 - Analysis of the method
 - Basically same as process in place — biennials

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Alternate Inspection Method

- **KEY REQUIREMENT**

- HAP contract must be executed **BEFORE** assisted lease and assisted tenancy commence

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Alternate Inspection Method

- If the PHA adopts this provision only:
 - If unit passed the inspection, HAP commences
 - If unit failed:
 - All deficiencies must be corrected prior to HAP
 - LT/NLT timeframes
 - HAP retroactive to start of effective date
 - If deficiencies aren't corrected...

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Alternate Inspection Method

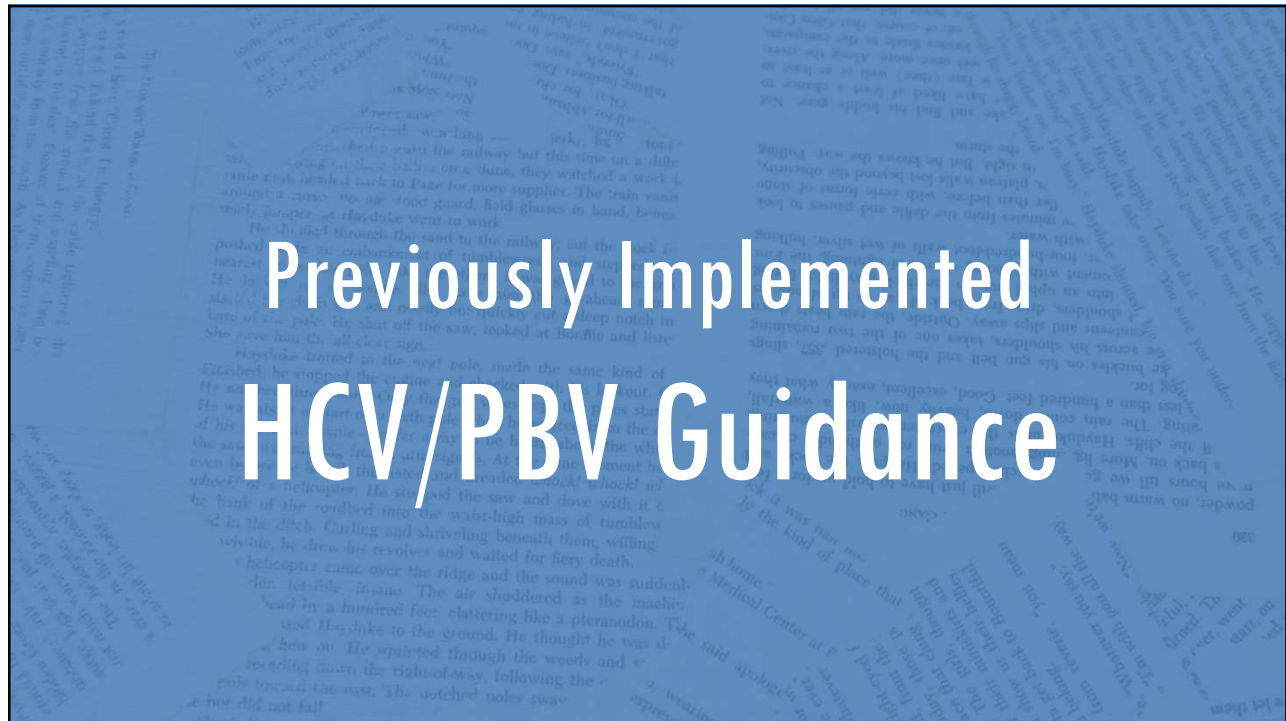
- If the PHA adopts both provisions:
 - If the unit fails with only NLT:
 - Unit may be assisted
 - 30 days to remedy or HAP stops/abated accordingly
 - If the unit fails with LT:
 - Unit may **NOT** be assisted
 - 24 hours to remedy or HAP stops/abated accordingly

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2 Key Requirements

1. Admin plans must be amended
 - Comment and review
 - Board approval
2. HUD must be notified
 - Prior to agencies utilizing either or both provisions
 - Get it in writing!

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Previously Implemented HCV/PBV Guidance

PIH Notice 2017-21

- Implementation guidance for HCV/PBV provisions
 - PHA-owned units and independent entities
 - Project-basing VASH and FUP vouchers
 - PHA Plan and Admin Plan requirements
 - Other PBV provisions

PHA-Owned Units

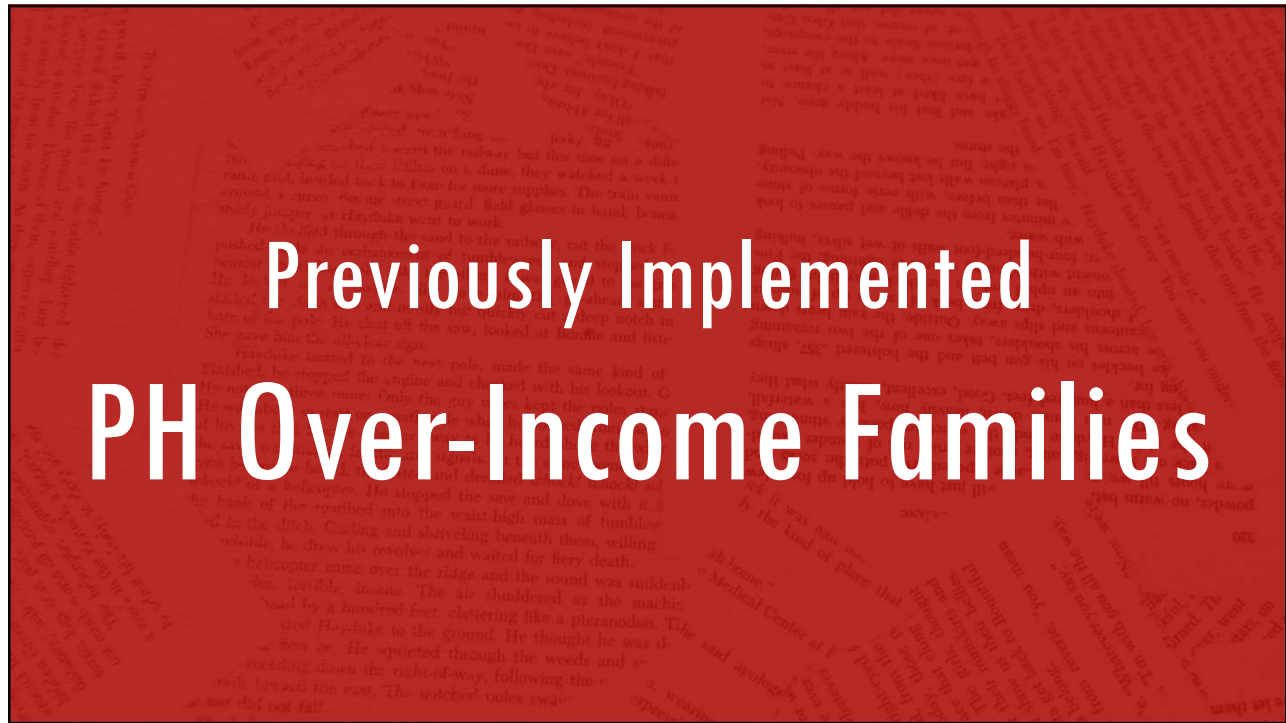
- HOTMA clarified the definition of “PHA-owned”
 - Owned by the PHA (including “controlling interest”);
 - Owned by an entity wholly controlled by the PHA; or
 - Owned by a limited liability company (LLC) or limited partnership in which the PHA holds a controlling interest in the managing member or general partner.

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Project-Basing VASH/FUP Vouchers

- HOTMA allows PHAs to project-base Family Unification Program (FUP) and HUD-Veterans Affairs Supportive Housing (VASH) vouchers without requiring additional HUD approval.
 - Prohibited to PB FUP vouchers prior to HOTMA
 - VASH could be PB, but required HUD approval

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PIH Notice 2019-11

- Addresses the growing number of families in the PH program whose income exceeds established income limits
 - Highly publicized cases
 - Millionaires living in PH
 - Economic self-sufficiency

Current Regulation: Over-Income Limits

- No family other than a low income family is eligible for admission to a PHA's public housing program.
 - Income Limits
 - Extremely Low — below 30% of area median income or the federal poverty level, whichever is lower
 - Very Low — between 30% and 50% of AMI
 - Low — between 50% and 80% of AMI
- Once admitted, PHAs were not required to terminate an over-income family

- HOTMA placed an income limit on continued occupancy for families living in public housing
 - The local over-income limit is determined by multiplying the applicable income limit for a very low-income family by **2.4**
 - If the family's income exceeds the over-income limit after the first year, the PHA must provide written notification to the family that their income has exceeded the over-income limit for one year.

Enacted Regulation: Over-Income Limits

Enacted Regulation: Over-Income Limits

- If the family's income continues to exceed the over-income limit for the next 12 consecutive months, the family would be **subject to either a higher rent or termination based on the PHA's policies**
 - Applicable FMR for the unit or the amount of monthly subsidy for the unit including amounts from the Operating/Capital Fund
 - PHA may terminate the tenancy of the family no more than 6 months after the third determination that the family's income exceeds the income limit

Enacted Regulation: Over-Income Limits

- DOES NOT APPLY to PHAs operating fewer than 250 public housing units that have admitted families with income exceeding the over-income limit if the PHA is renting to those families because there are no income-eligible families on the waiting list
- PHAs must submit an annual report to HUD that specifies:
 - Number of over-income families residing in public housing
 - Number of families on the waiting lists

- Revises HUD regulations to put sections 102, 103, and 104 of HOTMA into effect
- Sweeping changes to the United States Housing Act of 1937
 - Income calculation and reviews
 - Assets — definitions and eligibility limitations

HOTMA Proposed Rule – 09/17/2019

Section 102

Income reviews in Section 8 and public housing programs

Section 103

Continued occupancy income limits for public housing

Section 104

Limitations on assets owned by PH and S8 participants

Section 102 Income Reviews

Current Regulation: Income Reviews

- Reviews of family income for purposes shall be made:
 - In the case of all families, upon the initial provision of housing assistance for the family
 - Annually thereafter, except as with respect to fixed-income families
 - Upon the request of the family, at any time the income or deductions of the family changed by an amount that is estimated to result in a decrease of 10% or more in annual adjusted income

Current Regulation: Income Reviews

- A family may request an interim reexamination of family income or composition because of any changes since the last determination. The PHA must conduct the interim reexam within a reasonable period of time after the family's request
- The PHA must adopt policies describing under what circumstances the family must report a change in income and composition

Proposed Changes: Income Reviews

- If the estimated increase/decrease in family adjusted income is **at least 10%** (or a lower threshold established by the PHA), the PHA **must conduct** the interim reexam
- The PHA may **decline** to process the interim reexam if the family's adjusted income will increase/decrease by an amount that is **less than 10%**
- The PHA may choose **not to conduct** an interim reexam in the **last 3 months** of a certification period

Current Regulation: Definition of Annual Income

- Annual income means all amounts, monetary or not, which:
 - Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
 - Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
 - Which are not specifically excluded
- Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access

Proposed Regulation: Definition of Annual Income

- Annual income means all amounts, monetary or not, which:
 - All amounts, not specifically excluded, received from all sources by each member of the family who is 18 years of age or older or is the HoH or spouse of the HoH
 - Unearned income by or on behalf of each dependent who is less than 18 years of age

Proposed Regulation: Definition of Annual Income

- Annual income means all amounts, monetary or not, which:
 - The imputed return on assets over \$50,000 based on the current passbook savings rate, as determined by HUD, if the actual income on assets over \$50,000 cannot be computed. The \$50,000 figure shall be adjusted annually in accordance with a commonly recognized inflationary index determined by HUD

Proposed Regulation: Excluded Income

- Any imputed income from assets, unless net family assets exceed \$50,000
- Any amounts that would be eligible for exclusion under the Social Security Act
- Deferred disability benefits from the Dept. of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts
- Any expenses related to aid and attendance to veterans who need regular aid and attendance

Proposed Regulation: Excluded Income

With the exception of **inheritances, capital gains, gifts, and other sporadic income**, HUD proposes to maintain the other exclusions currently listed in §5.609

- Lottery winnings
- Birthday gifts
- Irregular contributions



Proposed Regulation: Excluded Income

- Insurance payments remain excluded from annual income, but it is clarified that insurance payments include payments under health and accident insurance and worker's compensation
- Earnings in excess of \$480 for full-time students 18 years or older who are not the HoH or spouse of the HoH remain excluded
 - However, that exclusion requires that the **\$480** figure **be adjusted annually** for inflation

Current Regulation: Adjusted Income

- Annual income of the members of the family residing or intending to reside in the unit after making the following deductions:
 - \$480 for each dependent
 - \$400 for any elderly/disabled family
 - Unreimbursed medical expenses of an elderly/disabled family
 - Unreimbursed disability assistance expense
 - Reasonable childcare
 - Permissive deductions (PH only)

Proposed Regulation: Adjusted Income

- Annual income of the members of the family residing or intending to reside in the unit after making the following deductions:
 - \$480 for each dependent
 - Remained the same
 - \$525 elderly/disabled allowance
 - Increased to \$525 from the current \$400
 - HUD **adjust** the dependent deduction and elderly and disabled allowance **annually** for inflation by rounding such amount to the next lowest multiple of \$25

Current Regulation: Medical Deductions

- The Health and Medical Expense Deduction is limited to the amount by which those expenses exceed 3% of the family's annual income
 - Unreimbursed medical expenses of any elderly/disabled family
 - Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, if determined necessary to enable any member of the family to be employed

Proposed Regulation: Medical Deductions

- The Health and Medical Expense Deduction is limited to the amount by which those expenses exceed **10%** of the family's annual income
 - A family may request a financial hardship exemption due to the change from 3% to 10%
 - The family must demonstrate their inability to pay rent
 - If approved, the threshold would change to 6.5%
 - Exemption expires at the family's next regular income reexamination or when the family can pay rent without the hardship exemption, whichever comes first

Case Study #1: Current Calculation

Elderly/Disabled Household	
Annual Income	\$18,000
Medical Expense	\$4,800
Annual Adjusted Income	
Medical Expense Threshold	$\$18,000 \times 3\% = \540
Medical Expense Deduction	$\$4,800 - \$540 = \$4,260$
Elderly/Disabled Allowance	\$400
Total Adjusted Income	$\$4,260 + \$400 = \$4,660$
Annual Adjusted Income	$\$18,000 - \$4,660 = \$13,340$
Adjusted Monthly Income	$\$13,340 \div 12 = \$1,112$
TTP	$\$1,112 \times 30\% = \333


Case Study #1: HOTMA Calculation

Elderly/Disabled Household	
Annual Income	\$18,000
Medical Expense	\$4,800
Annual Adjusted Income	
Medical Expense Threshold	$\$18,000 \times 10\% = \$1,800$
Medical Expense Deduction	$\$4,800 - \$1,800 = \$3,000$
Elderly/Disabled Allowance	\$525
Total Adjusted Income	$\$3,000 + \$525 = \$3,525$
Annual Adjusted Income	$\$18,000 - \$3,525 = \$14,475$
Adjusted Monthly Income	$\$14,475 \div 12 = \$1,206$
TTP	$\$1,206 \times 30\% = \362

Current Regulation: Childcare Deductions

- A deduction for any reasonable childcare expenses necessary to enable a member of the family to:
 - Work
 - Seek employment
 - Further his or her education

Proposed Regulation: Childcare Deductions

- A deduction for any reasonable childcare expenses necessary to enable a member of the family to:
 - Work
 -  **ELIMINATED**
 - Further his or her education
- A family may request a financial hardship exemption to continue the childcare expense deduction

Proposed Regulation: Childcare Deductions

- The PHA must continue the childcare deduction if the family can demonstrate, to the PHA's satisfaction:
 - Their inability to pay their rent as result of the loss of the childcare deduction; and
 - The childcare deduction is still necessary even though the family member is no longer employed or furthering their education
 - The hardship exemption ends at the earliest of the next regular reexamination or when the family can pay rent without the hardship exemption, whichever comes first

Current Regulation: Earned Income Disallowance

- Allows qualified persons to keep more of their earned income for a period up to 24 months following an increase in employment income
 - Qualifying circumstances (PH vs. S8)
 - First 12 months — 100% disallowance
 - Second 12 months — at least 50% disallowance
 - 24 consecutive months
 - Can only be used once

- 
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 - 24 consecutive months
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Proposed Regulation: Earned Income Disallowance



Section 103

Over Income Limit (PH)

Section 103

- Proposed rule seeks to codify implantation guidance of 2019-11
- New regulation — 24 CFR 960.507
 - Treatment of over-income families in public housing, including how to determine the monthly subsidy for such families' units
 - Lease provisions specific to OI families > 2 years
 - Grievance procedures for OI families > 2 years

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Section 104

Asset Limitations

Current Regulation: Assets Definition

- Net Family Assets
 - Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

Proposed Regulation: Assets Definition

- 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 investment
- The value of any business or family assets disposed of for less than fair market value during the 2 years preceding the date of application/reexamination
- New exclusions from net family assets

Proposed Regulation: Assets: New Exclusions

- Necessary items of personal property, and all items of personal property valued at \$50,000 or less
- The value of any accounts specifically dedicated for retirement
- Real property for which the family does not have the effective legal authority necessary to sell such property
- Amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty that resulted in a member of the family being disabled

Proposed Regulation: Assets: New Exclusions

- Value of any Coverdell education savings account or any qualified tuition program under sections 530 and 529, respectfully, of the IRC
- Interest in Indian trust land
- Equity in a manufactured home where the family receives Section 8 Tenant-Based Assistance
- Equity in property for which a family receives HCV Homeownership assistance
- Family Self-Sufficiency Accounts

Proposed Regulation: Assets: New Exclusions

- Trust Funds

- The value of a non-revocable trust would not be considered an asset as long as the fund continues to be held in trust
- Any income distribution from any trust would be considered income, except in the case of distributions from non-revocable trusts, made to cover the medical expenses for a minor

HUD proposes to consider items valued over \$50,000 to be those of “**significant value**” given HOTMA’s provision that families may certify that their net assets do not exceed \$50,000.

**Proposed Regulation:
Restriction on Assistance**

- A unit may not be rented, or assistance provided to a family initially or upon reexamination if:
 - The family's net assets exceed \$100,000
 - The family has a present ownership interest in, and the effective legal authority to sell, in the jurisdiction in which the property is located, real property suitable for occupancy by the family as a residence

**Proposed Regulation:
Restriction on Assistance**

- A property is considered suitable for occupancy unless the family can demonstrate that the property:
 - Does not meet the disability-related needs of the family, including meeting physical accessibility requirements;
 - Is not sufficient for the size of the family;
 - Is geographically located so as to provide a hardship for the family; and
 - Is not safe to reside in because of its physical condition

- Exception:

- Any property for which the family is receiving assistance under the manufactured home space rental or HCV homeownership options
- Any property that is jointly owned by a member of the family and another individual or individuals who would not reside with the family
- Any person that is a victim of domestic violence, dating violence, sexual assault, or stalking
- Any family that is offering such property for sale.

**Proposed Regulation:
Restriction on Assistance**

- PHAs may choose not to enforce the limitation on eligibility based on assets, or it may establish exceptions to the restrictions based on eligibility criteria if it does so in the PHA Plan or adopted policy
- PHAs choosing to enforce the asset limitations may delay the start of the eviction or termination proceedings for a period of not more than 6 months for a family that does not meet the limitation on assets

**Proposed Regulation:
Restriction on Assistance**

Current Regulation: Financial Disclosure

- § 5.230 requires applicants and participants to sign consent forms authorizing PHAs to determine eligibility or the level of assistance
- The consent forms must contain a statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed
- HUD 9886

Proposed Regulation: Financial Disclosure

- PHAs able to obtain **any** financial record whenever the PHA determines the record is needed in connection with a determination of eligibility or level of benefits
- Authorization allowing PHAs to obtain financial records from financial institutions shall remain effective until the earliest of:
 - The rendering of a final adverse decision for an assistance applicant;
 - The cessation of a participant's eligibility for assistance from HUD and the PHA; or
 - The express revocation by the assistance applicant, recipient or applicable family member of the authorization, in a written notification to HUD

- Current

- § 5.232 makes refusal to sign the consent forms grounds for denial of assistance/admission or termination of assistance

- Proposed

- § 5.232 will be amended to state that this section is not applicable if the family revokes their consent with respect to the PHA's ability to access financial records from financial institutions, unless the PHA has established a policy in its PHA Annual Plan that revocation of consent to access financial records will result in denial/termination of assistance or admission

Proposed Regulation:
Failure to Sign

- HOTMA provides PHAs the discretion to determine whether applicants or recipients are ineligible for benefits if they, or their family members, refuse to provide or revoke the authorization to obtain financial records
- The proposed rule clarifies that the penalties will not apply if any family members revokes consent for the PHA to access financial records, unless the PHA has established a policy in their Annual Plan that revocation of consent to access financial records will result in denial or termination of assistance or admission

Proposed Regulation:
Failure to Sign — Policy Decision

Proposed Regulation: Self Certification

- The family may certify that the family's net assets do not exceed \$50,000
 - The certification must state the amount of income the family expects to receive from the assets — this amount must be included in the family's income
 - The family may certify that the family does not have any current ownership interest in any real property at the time the PHA reviews the family's income





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2021 HCVP Funding Provisions

- Notice PIH 2021-10
- Allocation methodology for HAP renewal funds and administrative fees
- HAP set-aside application process
- Two parts:
 - HUD's implementation of the funding provisions
 - Administration of the PHA's HCVP programs

The Housing Choice Voucher Program is
HUD's **LARGEST** rental
assistance program.

Total Available CY 2021 Appropriations:

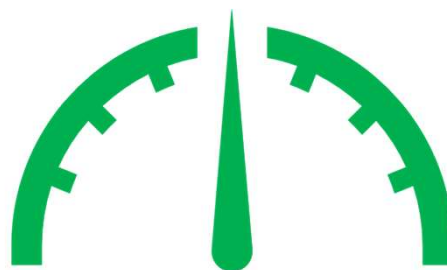
\$25,777,439,000

That's BILLION. With a "B".

157

2021 HCVP Funding Provisions

The 2021 Act requires that HUD apply a re-benchmarking renewal formula **based on validated leasing and cost data in VMS for CY 2020** (January 1, 2020 to December 31, 2020) to calculate each housing authority's renewal allocation.



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2021 HCVP Funding Provisions



Set-Aside Awards will be made to eligible PHAs **in accordance with need**, as determined by HUD, following an application by the PHA.

HUD reserves the right to fund one, some, or all of the categories.

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2021 HCVP Funding Provisions

Tenant Protection Vouchers (TPVs) are provided to **protect HUD-assisted families from hardships** that occur in HUD's Public Housing (Low-Rent) and Multifamily Housing portfolios.



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2021 HCVP Funding Provisions



The 2021 Act provides **\$2,159,000,000** for ongoing administrative expenses of PHAs administering the HCV Program.

*This year's appropriation **cannot** be used for the COVID-19 eligible expenses as authorized in CY 2020 by the CARES Act.

161

2021 HCVP Funding Provisions

For **eligible homeless veterans and their families**, the HUD-VASH Program combines the HUD HCV rental assistance program with case management and clinical services provided The Department of Veterans Affairs (VA).



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2021 HCVP Funding Provisions



PHAs receive **monthly disbursements from their budgetary allocations** in accordance with the cash management procedures in PIH Notice 2017-06.

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2021 HCVP Funding Provisions

PHAs are reminded that funds in the HAP RNP account and HUD-Held Program Reserves shall only be used for **eligible HAP needs** in the current CY.



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2021 HCVP Funding Provisions



PHA administrative fees may only be used to cover costs incurred to perform PHA administrative responsibilities for the program in accordance with HUD regulations and requirements.

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2021 HCVP Funding Provisions

The 2021 Act **prohibits** the use of appropriated HAP funds by any PHAs to **lease units above** their **baseline** units during any calendar year.

*Even if the PHA has sufficient budget authority (BA) and/or RNP to support the additional units.



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HCVP Financial Reporting Requirements

- HCV Programs must submit their Annual Financial Statements through FASS-PH and their monthly voucher leasing and cost data through VMS
- HUD uses VMS data for budget formulation, cash management, monitoring, determining renewal funding levels, and funding-related factors
- It's imperative that PHAs comply with reporting requirements and timelines for reporting through VMS, ensuring both timely and accurate submissions.

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HCVP Financial Reporting Requirements

- PHAs are required to submit leasing and cost data in VMS on a monthly basis
- Each month's data is submitted during the subsequent month
- VMS is available for regular submissions from the 4th through the 22nd of each month
- Adjustments to a previously reported month's VMS data may be entered at any time

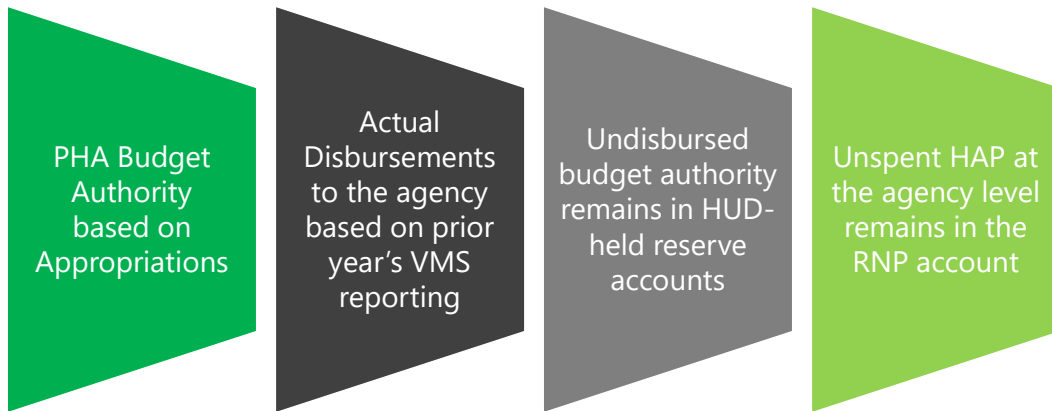
168

Tracking and Spending HUD-Held Reserve

- PIH Notice 2017-06 reestablished HUD-held reserves
- Excess HAP funds remain obligated, but undisbursed
 - Budget authority
 - Actual disbursements
- Transitioned PHA-held restricted net-position (RNP) back to HUD-held reserve accounts

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Tracking and Spending HUD-Held Reserve



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Tracking HUD-Held Reserve



**Disbursement
schedules**



**Renewal
Funding
Notices**



**Increment
Notices and
tables**



**Program
Funding
Reconciliations**

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Tracking and Spending HUD-Held Reserve

Identify HUD-held reserve amount at CYB

Track budget authority and disbursements throughout the CY

Reconcile at the end of the CY

**HUD-Held reserves are
YOUR MONEY.**

Start spending them.

173

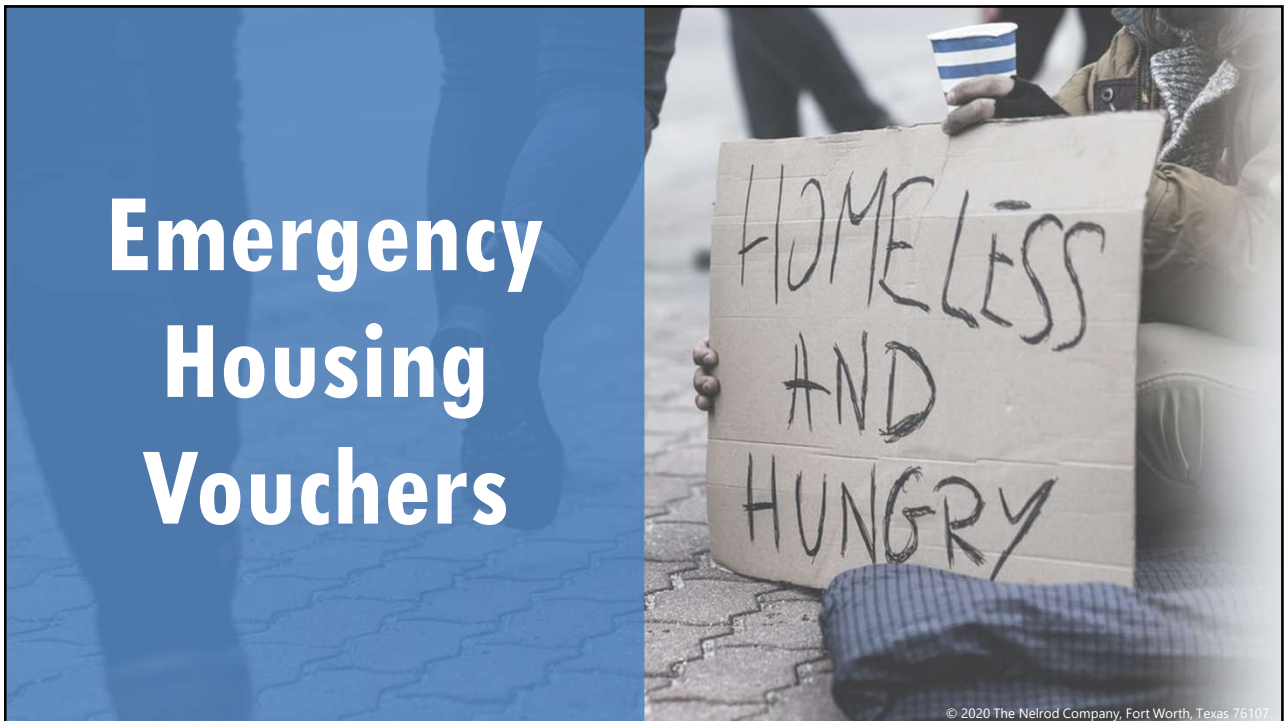
Tracking and Spending HUD-Held Reserve

- Forecasting and planning are critical
- Watch your ACC
- You must be able to maintain the vouchers you add
- Funding will catch up to spending, within reason
- Adding leased vouchers adds administrative fees
- How do you get your hands on that pile of cash?

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Tracking and Spending HUD-Held Reserve

- Requesting HHR from your FMC FA
 - Consult and work with your FA
 - Generally done on a month-to-month basis
 - Do your homework
 - Show your work
 - Present a compelling plan
 - Leave a little for a “rainy day”



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Emergency Housing Vouchers

- In May 2021, HUD allocated approximately 70,000 emergency housing vouchers (EHVs) to PHAs to assist individuals and families:
 - Who are experiencing homelessness
 - At risk of experiencing homelessness
 - Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking
 - Who were recently homeless
 - To prevent homelessness or housing instability

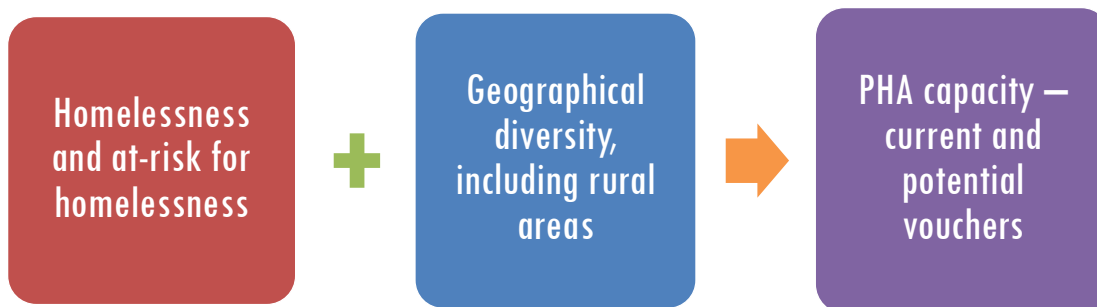
178

Emergency Housing Vouchers

- HUD generally considers 25 vouchers to be the necessary minimum allocation size
- The formula adjusts with respect to geographical diversity (rural areas) – 15 voucher minimum
- Each state has a base allocation
- Eligible PHAs were notified via email on or before 5/10/2021
- Agencies had 14 calendar days to accept or reject

179

How Were EHV's Allocated?



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Emergency Housing Vouchers

- EHV's are tenant-based assistance under Section 8
- HAP is initially funded through 12/31/2022
- Funding is separate from standard HCV-based funding
- PHAs that accept their allotment of EHV's will receive:
 - Admin fees
 - Fees for EHV eligible expenses

“Other” Eligible Expenses

Administrative Fees for EHV's



Preliminary fee



Placement fee



Ongoing admin fee



Services fee

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Emergency Housing Vouchers

- PHAs are required to work with community partners to determine the best use and targeting for the vouchers along with other resources available in the community.
- Participating PHAs must enter into a memorandum of understanding (MOU) with the Continuum of Care (CoC) in the jurisdiction
- Within 30 days of effective ACC funding increment

183

Emergency Housing Vouchers

- The primary responsibility of the CoC under the MOU is to make direct referrals of qualifying individuals and families to the PHA
 - Determining eligibility
 - Make connections with diverse network of supportive services
 - Support applicants through the process

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Emergency Housing Vouchers

- Families issued EHV as the result of:
 - Direct referral from the CoC*
 - Emergency transfer in accordance with VAWA
- EHV referrals are not added to the PHA's regular waiting list
- If referrals exceed allocation, maintain separate EHV waiting list
 - PHAs may establish preferences for EHV waiting lists

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Emergency Housing Vouchers

- Required housing search assistance
 - Identifying available units
 - Assisting individuals with disabilities
 - Transportation
 - Owner outreach
 - Application assistance
 - Assistance with the leasing process

186

Emergency Housing Vouchers

- Families must be income eligible
 - HUD is waiving the third-party income verification requirements for EHV applicants
 - PHAs allowed to consider self-certification as the highest form of income verification at admission
 - Applicants must submit an affidavit attesting to reported income, assets, expenses and other factors which would affect an income eligibility determination
 - Once in the system, EIV/IVT has to be checked to verify

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Emergency Housing Vouchers

- **SSNs and Citizenship**
 - HUD is waiving the requirement to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program
 - Such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance

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Emergency Housing Vouchers

- **Age/disability status**
 - PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available.
 - If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

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Emergency Housing Vouchers

- Other factors
 - Income targeting is waived for EHV applicants
 - Consider pre-inspecting units to expedite leasing processes
 - Initial search term of 120 days, extensions permitted
 - Initial lease term may be less than 12 months to allow for increased housing opportunity
 - VMS will be modified for reporting of EHV activity

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Emergency Housing Vouchers

- Other factors
 - Normal portability procedures and requirements apply
 - PHAs may use separate, *higher* payment standards for EHV
 - Inapplicable to project-based voucher assistance
 - Voucher turnover after 09/30/2023 becomes attrition
 - HUD can direct PHAs to cease leasing, revoke, and reallocate vouchers

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Denial of Assistance to EHV Applicants

- **Mandatory**
 - Convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing
 - Subject to a lifetime registration requirement under a State sex offender registration program

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Denial of Assistance to EHV Applicants

- **Permissible**
 - If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:
 - Violent criminal activity.
 - Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity

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Denial of Assistance to EHV Applicants

- Permissible
 - If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program within the previous 12 months.
 - If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months.

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Denial of Assistance to EHV Applicants

- PHAs may NOT deny assistance for:
 - Previous evictions
 - Debts owed
 - Alcohol abuse
 - Drug-related criminal activity

Non-Discrimination



Admission processes **MUST** be consistent with all Fair Housing requirements.





NOTICE PIH 2020-19

Rent Reasonableness

Supersedes Notice PIH 2011-46 and updates guidance concerning what is considered an assisted unit under Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) for the purpose of rent reasonableness requirements.

- Units in converted properties
- Units with restricted rents
- Unassisted units
- Recent rentals in multifamily properties

NOTICE PIH 2020-29

Optimized HCV Program

HUD's recognition of a recent trend of increased program reserves.

While a reasonable level of reserves is prudent, an excess could be indicative of several issues.

Notice provides tools and guidance on running an "optimized" program



Thank You!



Derek Antoine

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