

Practical Points

November 2012

From

PMCS-ICAP

Services and Solutions for Properties of All Sizes

Happy Thanksgiving - We're Thankful that Hurricane Sandy has Passed

We extend our hearts and hands to all of our clients, colleagues and friends who were affected by Hurricane Sandy. If we can help in any way, please contact us. We can assist you in transmitting your voucher on time, if you use web-based compliance software, and can help you obtain needed reports electronically. We are thankful that our Syracuse and Florida offices were not affected by the hurricane.

The staff of PMCS-ICAP sends our warmest wishes to all of you in our celebration of Thanksgiving. We appreciate and thank you for your continued support of our services. Have a wonderful holiday.

Residual Receipts Voucher Offset: Start Now - No Delay!

In September's Practical Points we described the provisions of HUD Notice 2012-14, issued on August 3, 2012. This Notice requires certain properties to use excess Residual Receipts (RR) to offset Section 8 vouchers, beginning with the November 2012 voucher, or as quickly as possible after that. On October 3, 2012, HUD published Frequently Asked Questions regarding the Notice.

Start now!

There is no delay. The earliest voucher that will be offset is the 11/2012 voucher. We know that you have already submitted that voucher, and may not have discussed a potential offset with HUD.

HUD's goal is to make sure everyone is starting to consult with their HUD Project Manager now, and that the offset process starts as soon as possible – even if this means starting with the December or January voucher. It will take some time to consult your Project Manager, and arrive at an agreed-upon RR balance, Retained Balance, and offset amounts.

If your property has any outstanding use agreements (HUD-approved uses for your RR), be sure to discuss them with your HUD PM so that your Retained Balance can be calculated correctly. As always, be sure to document, document, document.

Does this apply to my property?

This process **does not** apply to 811 PRACs, 202 PRACs, PACs, Section 236 and BMIR properties without Section 8, Rent Supplement or RAP subsidies. It also **does not** apply to Loan Management Set-Asides (LMSA) or Property Disposition Set-Asides (PDSA).

This notice only affects Section 8 “new regulation” contracts. These are:

- ▶ Section 202/8 projects, Section 8 New Construction and Section 8 Substantial Rehabilitation properties which are subject to 24 CFR parts 880.205(e), 881.205(e), and 883.306(e).
- ▶ New regulations are as follows: 24 C.F.R. Part 880 in effect as of November 5, 1979; 24 C.F.R. Part 881 in effect as of February 20, 1980; and 24 C.F.R. Part 883 in effect as of February 29, 1980.

If your Section 8 property has an original HAP contract date of November 5, 1979 or later, you are most likely required to use excess RR to offset your vouchers... even if there is no specific language stating that it can be used for that purpose.

The Notice does apply to appropriate properties, including those with Flexible Subsidy Loans or Risk Share financing. If you are in doubt about whether your property is affected, check with your HUD Project Manager.

Calculating the amount

You must work with your HUD Project Manager to figure out the balance available for voucher offset (if any), and the amount that must be used to offset each voucher monthly, until the RR contains only the allowable \$250/unit Retained Balance. Working together is a “must” because the RR balance is reported to HUD on the property’s annual financial statement, and that may not reflect the current balance accurately. This procedure applies to Mark to Market properties as well.

The \$250/unit retained balance is based on all revenue-producing units on site, not just the Section 8 units. So if you have a 200-unit Section 236 site with 85 Section 8 units, the Retained Balance will be \$250 x 200.

If the RR is in an investment account, managed by the lender, and the lender charges a fee, the property cannot keep the fee on top of the Retained Balance; fees must be paid out of the Retained Balance.

Together, management and the HUD PM must document all requests that have been submitted, and all uses that have already been approved for RR funds. If any use was previously approved, the property can keep that approved amount over and above the \$250 per unit, as part of the Retained Balance.

If your HUD office is already using your property’s RR to reduce rent increases, that practice can be continued, and is considered an approved use. If HUD already approved the use of RR funds for refinancing, that approval will remain in place.

Any requests for use of RR funds that were in progress before 8/3/12 must be sent to HUD Headquarters for approval. Any requests made after 8/3/12 will be denied.

To help plan for Service Coordinator funding, one full year of funding can be allocated for this purpose. That amount is subtracted from the RR balance before the \$250/unit is calculated and any excess determined. These programs may continue to be paid from RR on this basis, for additional one-year terms after the current one-year term expires.

Funds for bed bug treatment must come from the Retained Balance unless HUD approved such a request prior to 8/3/12.

Financial Statement Accounting

RR eligible items that have already accrued (i.e. owner advances, operating deficits) will be paid from the Retained Balance. If the site has a Residual Receipts Note, payments must come from the Retained Balance.

Residual Receipts are not considered new funds or an additional federal award coming to the property; they’re considered a release from the RR account to offset the Section 8 subsidy. A management fee may be collected on the RR funds released to offset subsidy.

The FAQ document contains detailed guidance on how Residual Receipts Account Offsets should be reported on financial statements, so you should send this document along to your financial staff and auditors.

Notice 2012-14 does not supersede any 202 refinancing procedures; 202/8 sites must implement RR voucher offset procedures just as any other property does.

Procedures and Timing

Failure to comply may result in delayed or interrupted voucher payments.

The Housing Notice provides flexibility for the individual HUD offices to implement the requirements in a manner most efficient in their jurisdictions. Pages 16-19 of the FAQ document show detailed steps for implementing the offset, developed by the San Francisco Multifamily Hub. Although it's not required that all HUD offices use these steps, HUD has presented it as a model.

Once you and your HUD PM have determined that there is an excess RR balance to be used to offset vouchers, you need to understand the process your HUD office is following, particularly regarding the completion of the Form 9250. Some HUD office are requesting the form be completed by the OA and submitted to HUD; other HUD offices are using pre-filled Form 9250s (containing everything except the amounts), and completing the amount section themselves after the CA has reconciled the voucher and informed HUD of the offset amount.

You should add an FORQ (Field Office Request Manual Adjustment) to your next voucher(s) as agreed upon. Enter this monthly amount as a negative number. You will receive any remaining voucher amount through the normal LOCCS payment process; with the RR offset amount received through the Form 9250 process.

If your HUD office is requiring the OA complete the Form 9250, we strongly recommend that you wait until you have confirmation from your CA of the amount that has been approved. This is because CAs often make adjustments to the OA voucher requests, which means the RR offset entered by the OA may be changed by the CA as well.

HUD will sign the approved 9250 and provide a copy to the lender and OA. The release from residual receipts must be timed in order for the funds to be received by the owner simultaneously with the normal voucher payment.

If you have a 202/8, and your mortgage payment is deducted from your voucher, the voucher amount after the offset must be sufficient to pay the usual mortgage offset. In this case, the RR offset will be for a lower amount than the total calculation, and that lower amount would be deducted from your vouchers. If your CA adjusts the voucher, the CA must make sure that the adjusted voucher amount, after the RR offset, is sufficient to pay your mortgage offset.

CAs can make or adjust the FORQ if the site doesn't do it properly, forgets to do it, or if the CA makes voucher adjustments based on their voucher review. You, HUD, and your CA (if you have one) are all responsible to track the total offset amount, its monthly balance, and the amount of the FORQ(s) on each voucher. Each HUD office may issue its own procedures for this.

Resources:

You can find both HUD Notice 2012-14 and the FAQ document on our website at: www.pmcs-icap.com

If you prefer to obtain them directly from the HUD website, the FAQ document will be posted at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/presrv/presmfh

And HUD Notice 2012-14 can be found at: <http://portal.hud.gov/huddoc/12-14hsgn.pdf> .

HUD Form 9250 is available from HUD Clips as a .pdf at:

http://portal.hud.gov/hufdportal/documents/huddoc?id=DOC_20713.pd

EIV: Online Changes as of October 29th

When you go into EIV to print your routine monthly reports, you'll notice a few changes!

The New Hires Report now appears on the left menu bar, under Verification Reports. When you print it from there, it will automatically include All Tenants, as HUD requires. To print the detail report for a household, you must click on the Details Report tab, and print them for all tenants all at once. We've let HUD Policy know that this is problematic, since it requires cutting and pasting when the reports don't paginate properly. This report still appears on the Income Search Screen and can be printed for tenants whose ARs are due in the selected month, if you choose to do so.

NOTE: HUD requires that this report be printed for All Tenants at least quarterly (on a timeframe noted in your EIV Policies and Procedures). The Summary goes in your Master File (with notes); the Detail goes in the tenant file along with any verifications/documentation.

New Report: "No Income Reported on 50059" shows people who reported zero income on their most recent certification. The Detail Report has a title error in the second section – it says "No Income Reported by HHS or SSA" - but the data is correct. We reported this error to HUD Policy. This report may be helpful to you in implementing your property's Zero Income Policy, if you have one. At this time, there is no HUD requirement to use it.

New Report: "No Income Reported by HHS or SSA" shows households who have no EIV-reportable income (no SS, wages or unemployment). This has the same data as the old "No Income Report"; it's just been re-named. At this time, there is no HUD requirement to use it.

Deceased Tenant Report now has two additional columns. One shows household members deceased less than 90 days ago; the other shows those deceased between 91 days and one year ago. This replaces one column in the previous Report that simply showed members deceased less than one year.

NOTE: HUD requires that this report be printed for All Tenants at least quarterly (on a timeframe noted in your EIV Policies and Procedures). The Report goes in your Master File (with notes); any verifications/documentation goes in the tenant file.

There were some minor wording changes in the...

Identity Verification Reports: "As of" date now appears in the title in the top box.

Multiple Subsidy Reports: When there are none, the wording is, "No Deficiencies Exist", instead of "There are no records for the selection criteria".

There is no HUD guidance yet on the use of any of the new or changed reports. So, unless you choose to print and use either of the two new reports, there's no reason to revise your EIV Policies & Procedures. If you do want to use one or both of them, be sure to include how and how often, in your EIV Policies & Procedures. And if you currently use the No Income Report (which HUD does not require), be sure to revise your EIV Policies & Procedures to change its name to show which report you're using.

Cost of Living Adjustment

The new COLA (Cost Of Living Adjustment) has been released by the Social Security Administration for the year 2013. All Social Security income types will increase by 1.7%, effective January 1, 2013. New Medicare premium rates have not yet been released.

Remember that the COLA will not be included in the Social Security amounts shown in EIV for households with Annuals due in January, February, March or April. HUD allows you to use the current SS income for ARs due during these months, or apply the COLA to those amounts. We strongly recommend that you be consistent in your procedures for all affected tenants.

For more information, refer to: <http://www.ssa.gov/pressoffice/pr/2013cola-pr.html>

Renter's Insurance

There are times when owners and managing agents wish they could require every tenant to have renter's insurance - especially when a resident is at fault for a fire or water damages. It costs the property to have these repairs completed, and if management uses its own property insurance the premiums will increase.

In a recent article in Multi-Housing News Online: <http://www.multihousingnews.com/features/owner-beware/1004062283.html>, owners of properties were made aware of the importance of residents having renter's insurance. A survey conducted by the National Multi Housing Council (NMHC) concluded that 66% of owners who replied to the survey required renter's insurance in 2010. Many require coverage of \$100,000, with limits ranging from \$25,000 to a staggering \$2M required by one owner.

However, HUD Regulations prohibit an owner/agent from requiring that tenants have renter's insurance. In fact, any deposits other than security deposits and not permitted. While owner/agents can certainly encourage renter's insurance, we cannot make having it a condition of tenancy.

Housing Assistance at Risk Due to Sequestration

Your Congressional Representatives are at home campaigning for the upcoming election. It is important to **contact them now** about "sequestering". Sequestration is a mandatory, across-the-board government spending cut that will affect federal affordable multifamily housing programs, especially rental assistance programs. The most vulnerable will be harmed if we do not urge our representatives to vote against this move.

According to NAHMA (National Affordable Housing Management Association), "Almost all federal affordable multifamily programs are eligible for sequestration, and would be cut by 8.2 percent if it is enacted."

Sequestering HUD's budget alone could result in the loss of:

- 53,000 jobs
- Housing assistance for at least 250,000 households – many of which are elderly, disabled, and/or veterans, and
- Homelessness assistance for 100,000 households

Update on PBCAs

As you may remember from September's Practical Points, the Government Accountability Office (GAO) upheld protests filed against HUD for issuing a Notice of Funding Availability (NOFA) to award PBCA contracts. The GAO recommended that HUD re-issue an RFP (Request for Proposal), and address the other concerns filed by the protesters.

HUD had 60 days to respond to the GAO on whether or not it would follow its recommendations. On October 25, HUD issued a statement that it has responded to the GAO report. HUD's response was to inform GAO that the Department is still reviewing the legal ramifications.

Clarification on VA Aid and Attendance

The RHIP ListServ has released new clarification concerning VA Aid and Attendance. This refers to how payments are to be treated with respect to annual income, and the regulations for medical expense exclusion (24 CFR 5.609(c)(4)). According to the U.S. Department of Veterans Affairs, Aid and Attendance (A&A) is an enhanced or special monthly pension benefit paid in addition to basic VA pension.

An individual must first establish eligibility for a basic VA pension in order to be eligible for A&A.

The VA indicates that a veteran may be eligible for A&A if:

- S/he requires the help of another person for daily living activities such as bathing, feeding, dressing, toileting, adjusting prosthetic devices or protecting himself/herself from the hazards of the daily environment
- The veteran is bedridden

- S/he is a patient in a nursing home due to mental or physical incapacity
- The veteran has corrected visual acuity of 5/200 or less, in both eyes, or concentric contraction of the visual field to 5 degrees or less

Because there is no statutory or regulatory exclusion for the A&A benefit, it must be included as income.

But remember that any “amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member” are excluded from annual income (4350.3, Exhibit 5-1, Income Exclusions, #4). You must verify any A&A amount received that is used for medical expenses and exclude the verified amount. Any portion of the benefit not being used for medical expenses must be included as income.

Disaster Planning

Hurricane Sandy hit the east coast in October - and emergency plans were put into effect. Some of us were caught in Washington DC for a meeting, and saw how some of the businesses began taking care of their guests. Our hotel provided daily information on how to handle the situation, provided flashlights and issued instructions on closing windows and moving away from areas where a branch might come through a window. These things reminded us how important it is to inform your residents of emergency plans as soon as possible.

Before a storm arrives, HUD asks that you take the time to do these important things:

1. Make sure vulnerable populations (persons with disabilities, the frail elderly, people without transportation) have the resources they need to survive a storm or to evacuate, if necessary.
2. Check your generator and any other emergency equipment and be sure it is functional.
3. Review your Emergency Relocation Plan. It should be in place and updated at all times.
4. Let your HUD Project Manager know of any vacant units you have when a storm is approaching, and what size(s) they are. This can be done by email and will be useful in the event persons are displaced from their homes and need to seek temporary, alternate housing.

Immediately after a storm, please report to HUD by emailing DamageAssessmentsFlorida@hud.gov :

- a. any health problems or injuries to residents or staff caused by the storm,
- b. any displacement or necessary evacuation/relocation of residents,
- c. any significant management problems you may now have as a result of the storm,
- d. any damages your development may have suffered,
- e. any vacant units undamaged by the storm, and what size(s) they are.

Refer to HUD Handbook 4350.1, Chapter 38, which outlines owner/agent responsibilities related to emergencies and Presidentially Declared Disasters.

Compliance Q & A

Question: Isn't there a rule that a person could not manipulate the head, co-head, etc. to get "elderly" status? Is that in the 4350.3 anywhere? Our HUD office is telling a resident to change their status from HOH to a Live-In Aide so that their income will not be counted. Roseanne in the Southwest

Answer: You're remembering correctly! 5-9(B) of the 4350.3 lists the five types of deductions (dependent, child care, disability, medical and elderly). The note below it says, “A family may not designate a family member as head or co-head solely to become eligible for these additional benefits.” You might want to share this citation with your HUD Field Office staff.

Question: Is there such a thing as using information from both EIV and the SS award letter? I have a tenant who started getting benefits in April 2012 that show in EIV, but EIV does not show any info on Medicare deductions. It says “EIV received no benefit data.” But her SS award letter does show a Medicare deduction of \$99.90. Would it be wrong to use the SS benefit amount on the EIV report and then use the Medicare amount that’s on the SS award letter? Or should I use the SS award letter’s info only? What if the EIV income report for her never shows the Medicare info; will I have to keep using the award letter thereafter? Marilyn in NY

Answer: HUD says that the Social Security income amount shown on the EIV Income Report must be used unless the tenant disputes it or it’s incomplete. Your question relates to a medical expense amount, rather than income. You’re pinpointed one of the times that the SS Award Letter should be in the tenant file, because it’s being used for purposes other than income verification. In this case, the Award Letter is being used for expense verification. We recommend that, in this case, you circle the Medicare data and note, clearly, that the Award Letter is being used “for Expense Verification ONLY”.

Internal Property Changes

Retirement, relocation and other life changes contribute to **employee turnover**. Training a new employee regarding HUD compliance is very time-consuming. It has been said that in general there is a two-year industry learning curve before a trainee fully understands how everything ties together. While training a new employee, voucher processing delays and/or errors may occur, which can in turn, delay your voucher payment.

PMCS can help with your HUD compliance processing and relieve you of the pressure of finding an employee that can do it all. Our services are customized to provide as much or as little support as needed. We can provide monthly certification and voucher processing, assistance with certification packets, verification review, and a slew of other HUD compliance processes and services. Call us or visit our website at www.pmcs-icap.com and click on the Services tab for a more complete list of the ways PMCS can help you.

If you hire a new employee who just needs a little support, PMCS General Consulting is a service available to answer their HUD-related questions. Under this agreement, your new employee (or any company personnel that you designate) can call any time, or schedule phone and/or computer link sessions with one of our specialists to get their questions resolved.

PMCS Telephone Seminars are another training resource. Your staff can access our training sessions from the comfort of their own desks! Our 90-minute telephone seminars are inexpensive and convenient. These public seminars are in an interactive format and allow for discussion and Q&A among the participants. Topics range from HUD basics to the latest updates. Our class schedule and registration form may be found on our website at http://www.pmcs-icap.com/telephone_schedule.html

Industry Organizations: Where We’ll Be...

November 9: **Mid-Atlantic AHMA, Richmond, VA:** Bonnie Wilpon, EIV, TRACS 202.D

For Further Information, Please Contact Us:

Solutions You Can Count On

Telephone: 315-451-2423

Web: www.pmcs-icap.com

Email: Solutions@pmcs-icap.com

Main Office: 829 West Genesee Street, Syracuse, New York 13204