

PracticalPoints

Celebrating 25 Years of Services and Solutions



April 2014

BREAKING NEWS

HUD Loses Appeal in PBCA Lawsuit

On March 25, 2014, the U.S. Court of Appeals for the Federal Circuit released its final decision in the case of CMS Contract Management Services et. al. vs. United States, ruling in favor of the PBCAs. As we previously reported in Practical Points, the PBCA plaintiffs had appealed the previous U.S. Court of Federal Claims decision that allowed HUD to proceed with its August 6, 2013 PBCA contract awards under the 2012 NOFA.

The Court of Appeals ruled that a NOFA was not appropriate for the task of contract administration – rather, HUD needed to make these awards under an RFP, used to procure services for HUD. The Court of Appeals reversed the lower court’s decision and provided specific instructions to the lower court

to reissue a decision that is consistent with that of the higher court.

So, what happens next? First, it means HUD cannot proceed with contracts with the PBCA awardees announced on August 6, 2013. Secondly, it means HUD could:

- Appeal the decision (legal proceedings would continue).
- Decide to bring all the PBCA work back to the HUD Offices (probably not feasible).
- Redevelop a new RFP to rebid the contracts following HUD’s procurement rules (this would probably take a couple of years).
- Leave current PBCAs in place and re-negotiate new contracts or contract extensions with them that may or may not include changes to tasks such as MORs.

Stay tuned for additional updates on HUD’s next steps.

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QUESTION

A tenant was moved in based on calculations using the net SS income instead of the gross benefit income. This was discovered upon retrieving EIV income data within 90 days of the move-in date. The difference between these two amounts is the \$104/month for the Medicare premium. The amount is not over the \$200/month criteria for reporting to HUD. Should an IR be done at this time to use the correct gross income amount? Or, can this be corrected at the Annual Recertification?
~ Don in Georgia

Answer on page 3

PMCS - Celebrating 25 Years with Free Phone Class Giveaways

In honor of celebrating our 25th Anniversary, we are giving away a FREE PHONE CLASS to every 25th phone class registrant all year long.

Congratulations to our March Winners:

Brenda W., Helen Noreen Apartments, Presque Isle, ME

Patricia H., Gloria Dei Towers, Huntingdon Valley, PA

Jerry B., Village East Apartments, Johnson City, TN



BREAKING NEWS

Expiring Forms – What To Do

You may have noticed that some important forms expire at the end of March, 2014. They include the model leases, 50059s, Race/Ethnicity Form, EIV CAAFs and UAAFs, and some sample forms. Voucher forms have been expired for some time now.

HUD Policy says that you should continue to use these forms until new ones are issued. HUD has submitted updated forms to the OMB (Office of Management and Budget) for

approval, and they are still in the process of reviewing them. In cases like this the expired forms are acceptable since the hold-up is with the OMB.

Generally though, using expired forms can result in a MOR finding. Be sure to watch our monthly newsletter, Practical Points, as well as HUD's RHIP ListServ, for information about new versions of forms when they're released. Then, download them promptly and begin using them immediately.

PBCA “Voluntary” MOR’s Not Permitted by HUD

We are aware that several PBCAs have asked properties to participate (some voluntarily) in “cursory”, “informal” or “practice” MORs. Kerry Hickman, Deputy Director of HUD’s Office of Housing Assistance Contract Administration Oversight, has confirmed that HUD’s policy is quite clear.

To clarify MOR activity for the 42 PBCAs in contested states only: The PBCAs are not to conduct MORs (voluntary or otherwise). If a PBCA receives questions from an owner/agent (i.e. technical questions about items on the HUD Form 9834 used for MORs), the PBCA may answer the questions.

If an owner/agent has made an official request for a site visit due to an

emergency or property concern, the owner/agent should contact their HUD field office for assistance. Likewise, PBCAs should contact their local HUD field offices to report issues of concern that may require HUD follow-up.

Now that the court case brought by PBCAs against HUD has been adjudicated in favor of the PBCA’s, the industry is waiting to see if HUD will reinstate MOR’s in the 42 states or not. We will provide information as it becomes available.

If your property is administered by a PBCA in one of the eleven uncontested states, by a Traditional CA, or by HUD (i.e. PRACs), your MORs will continue as they have in the past.

ANSWER

Question:

I have a question regarding Citizenship Requirements. Some states, such as Michigan, have an enhanced driver license. The license provides Proof of Identity and U.S. Citizenship. Would it be acceptable to obtain a copy of the license in place of a birth certificate for proof of citizenship, if an applicant could not provide a U.S. Passport?
~ Kim in MI

Answer:

HUD does not require owner/agents to document that someone is a U.S. citizen, though management is permitted to verify it if they establish a policy/procedure to do so. The verification document can be any reasonable one(s) you want to allow. An enhanced driver’s license or passport would be perfectly OK to use for that purpose.


Appendix 3 (Acceptable forms of Verification), Citizenship, simply says that citizens must sign the Citizenship Declaration Form, and that O/As may (not should or must) ask applicants to provide proof of their citizenship. For other items, HUD readily accepts federal, state, and local government documents; both a passport and a driver’s license would meet the criteria.

PMCS PHONE TRAINING

PMCS offers a variety of live phone classes that are designed to meet the demanding needs of the Affordable Housing Industry. Our experienced trainers provide resources and information that will help you successfully manage your properties. Our 90-minute phone training is a cost effective, convenient solution for you and your staff. The interactive format is an excellent opportunity for questions and answers and our trainers will stay on the line until all questions are answered.

Visit our website to view all our different classes and their descriptions: pmcs-icap.com/training/phone-training

2014 PHONE CLASSES



April Phone Classes:

- **Change 4**
- **EIV Reports Related to Income**
- **Calculating Expenses and Deductions for 50059s**
- **Tenant Repayment Agreement**
- **TRACS 202.D: The New 50059s**
- **House Rules**

MONTHLY NEWS

2014 PAC Renewal

Instructions for renewing your PAC (Project Assistance Contract) have just been released by HUD, though they sent them to their Field Offices on February 19, 2014. Use them to process your contract renewal for FY (fiscal year) 2014.

PACs that are expiring can only be renewed for one year. You can find the memo and the FY 2014 contract

on HUD's website page [Multifamily Housing – Section 8 Expiring Contracts](#) under "Renewal of Expiring Project Assistance Contracts (PACs) Under the Section 202 Program of Supportive Housing and Urban Development for the Elderly and for Persons with Disabilities for Fiscal year 2014" (the 7th bullet under Section 8 Contracts)

Housing and The FY 2015 Budget

A preliminary look at President Obama's FY 2015 budget shows some cuts and some increases.

Some of the cuts: CDBGs (Community Development Block Grants) and HOME are slated for cuts, and Project-Based Rental Assistance would be returned to 2013 levels. Small rural housing programs have been zeroed out.

On the up side: Tenant-Based Rental Assistance, homeless assistance, Section 202 housing for seniors and Section 811 housing for people with disabilities are budgeted at higher levels than in 2014.

Of course, this is just a budget proposal; much may change between now and the final budget that passes through Congress.

FASSUB Extension and Preparation

If your fiscal year ended on December 31, 2013, and your property is required to submit an annual financial statement electronically through FASSUB, you have extra time!

HUD has authorized a 30-day extension, and your submission is now due on April 30, 2014. The extension is to give your auditor and owner time to implement the requirements of Housing Notice H 2013-23, and to adapt to the updated FASSUB system release on December 6, 2013. That release implemented the changes in the HUD Consolidated Audit Guide, Handbook 2000.04.

Be sure that the person doing the electronic filing can get into HUD Secure Systems. That means s/he must have an active User ID and a current password.

To re-set a password, go to: [PIH-REAC Online Systems](#) and choose Password

Reset from the System Login box at the right.

If a User has not gone into the system in the past 90 days, his/her access will have expired. A User ID can only be reactivated by contacting the TAC (Technical Assistance Center). The TAC is open Monday – Friday, from 7:00 am to 8:30 pm Eastern Standard Time, and can be reached at 1-888-245-4860 or by email at: REAC_TAC@hud.gov

The User will be asked to provide his/her User ID, mother's maiden name and the last 4 digits of the Social Security Number for verification purposes. Best times to call are from 7:00 – 8:30 am and 6:30 – 8:30 pm.

Information on the latest updates to PIH-REAC Business Area products and security procedures can be found at: [Real Estate Assessment Center \(REAC\)](#).

ANSWER FROM PAGE 1

Answer:

In this case, the Move-In cert wasn't calculated correctly, so a Correction to the Move-In must be completed and transmitted to TRACS. The corrected cert should show the gross Social Security as income and the \$104 Medicare as a medical expense. Since this was a management error, the tenant must receive a 30-day notice of any rent increase, and is not responsible for any additional rent retroactive to the move-in date. That amount would be absorbed by management.

Handling Injuries on the Job

Do you have a policy for handling injuries on the job? It is important to have employee policies in place and to be aware of how to handle situations. Please check with your managing agent or Human Resource person and keep this information handy. As you review your policies, check for the following:

- Every employee should always report any injury on the job, no matter how insignificant it may seem.
- A report of the incident needs to be documented.
- The injured party needs to get to a medical facility to handle the problem.
- A report should be requested from the medical facility to take back the employer, showing any stipulations as to the work that can or cannot be performed. If the employee cannot return to work, s/he should immediately notify his/her supervisor.
- A follow-up by the employer should be done and documented
- A review of safety issues should be reviewed on a regular basis, as well as after an incident.