



April 2016

BREAKING NEWS

HUD Rule Streamlining Rent Regulations

For years, the affordable housing industry has voiced a desire for HUD and other federal agencies to streamline regulatory requirements owners must follow when simultaneously participating in HUD, IRS, and USDA/Rural Development subsidy programs. The administrative benefits of streamlined regulatory measures have become apparent as more owners begin to utilize multiple layered subsidy programs to fund the continued viability of their properties.

On March 8, 2016, HUD took a significant step in implementing a regulatory streamlining initiative within its multifamily portfolio, publishing in the Federal Register, [Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs; Final Rule](#). Changes introduced in this Final Rule are effective April 7, 2016.

This Final Rule includes complex discussions related to HUD’s Public and Indian Housing programs as well as the multifamily program. Reading through the Rule and deciphering what sections apply to your property can be a daunting task. To assist you, PMCS has created a series of four (4) articles, each of which discuss one of the four (4) provisions that have an immediate impact on owners in HUD’s multifamily programs.

Part I. Definition of Extremely Low Income (ELI)

The statutory definition of an Extremely Low Income (ELI) family was originally modified in July 2014 to be a low-income family whose income does **not** exceed the greater of 30 percent of the area median income or the federal poverty guideline for that household size.

The federal poverty guidelines are published by the Department of Health and Human Services (HHS), usually in January of each year. Below are the guidelines for 2016.

2016 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA	
Persons in family/ household	Poverty Guideline
1	\$11,880
2	\$16,020
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In This Issue

- HUD Rule Streamlining Rent Regulations
- HHS and EIV System Computer Matching Temporarily Suspended
- Updated FAQ Published Regarding Transfer of Budget Authority Under Section 8 (bb) (1)
- 2016 Income Limits Have Been Published



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HUD Rule Streamlining Rent Regulations (continued)

Note: For families/households with more than 8 persons, add \$4,160 for each additional person. There are separate poverty guidelines for Alaska and Hawaii. These figures do not have to be loaded into your TRACS compliance software. They are provided for informational purposes only.

Correct application of this definition of ELI families is important for owners of properties with **Project-Based Section 8** assistance contracts. For each project assisted under a contract for project-based Section 8 assistance, the owner must lease at least 40% of the contract units that become available for occupancy in any project fiscal year to extremely low-income families. This regulatory requirement is referred to as income targeting. The methodology for income-targeting **must** be described in the property's tenant selection plan.

It is important to recognize that while the income-targeting requirements have **not** changed, the definition applied to extremely low income applicant families that satisfy the 40% move-in requirement has.

Part II. - New Definition of Tuition

This provision does not apply to the Rent Supplement, Section 236, Section 221 (d) (3) or (d) (5) programs.

On November 18, 2015, HUD published a joint Public Housing and Multifamily Notice, [Notice PIH 2015-21: Amendment to the Definition of Tuition](#) that formally amended the definition of tuition found in *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A). **The new definition is now used in both Multifamily Housing and Public and Indian Housing (PIH) programs.**

Tuition is now defined as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit **plus required fees**. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Other expenses related to attending an institution of higher education are **not** to be included as tuition. These expenses include books, supplies, room and board, meal plans, transportation and parking, student health insurance plans, and other non-course related fees.

While the amended definition of tuition is applicable to all HUD programs, the specific program rules governing the calculation of annual income from financial assistance in excess of tuition have **not** changed.

So, what properties are affected by this amended definition?

Section 8 owners are impacted by this change. Specifically, since 2005, funds in excess of tuition are included as income at a Section 8 property unless:

- The student lives with his/her parents in a Section 8 unit; or
- When the student is over the age of 23 with a dependent child.

It will be important for owners to modify their verification forms they send to institutes of higher education, to specify that tuition expenses to be verified should include those eligible course related fees.

When using the new definition of tuition, the amount of tuition calculated will likely increase, meaning the amount the individual receives in excess of tuition will likely **decrease** when determining annual income. **24 CFR § 5.609(b)(9).**

Income calculation methodologies for other program types (Public Housing, PRACS, RAP, BMIR, 236, etc.) will **not** change, as the full amount of financial assistance a student receives is **excluded** from annual income. **24 CFR § 5.609(c)(6).**

Part III. (New) Social Security Number Requirements for Some Applicant Members under the Age of 6

When the original Social Security Requirements Final Rule was published in January 2010, the regulation required all members of an applicant household that had an assigned social security number, to provide acceptable documentation of that number **prior to move in**. In the absence of verification of an SSN for any of the members that had one, the entire household was **not** permitted to move in.

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BREAKING NEWS

HUD Rule Streamlining Rent Regulations (continued)

Via this new Final Rule, 24 CFR 5.216 will now permit owners to accept **applicant** households which include an applicant family member who is under the age of 6 and who cannot provide a Social Security Number (SSN), **provided the child was added to the household within the last six months**. The households will have 90 days and one additional 90 day extension to provide the SSN. This is the same extension timeframe allotted to **in-place** households wishing to add a new member, under the age of 6, to the unit.

To illustrate what this new rule does and does **not** permit, let's examine two scenarios:

Applicant Family A consists of a mother, father, and 4-month old child. When the household reaches the top of the waiting list, this new rule allows the family to move in, even if the parents were not able to provide acceptable documentation of the SSN for the 4-month old child. The household will have 90 days to provide the SSN to management.

Applicant Family B consists of a mother, father, and their 5 year old child, all of whom have been listed on the application since they were added to the waiting list a year ago. This new rule does **not** afford this family any exception or additional time in order to provide the SSN for the 5-year old child because this child was **not** added to the household within the last 6 months. This family must provide the SSN for all three family members before moving in.

This regulatory change impacts all multifamily owners on a software, policy, and procedural level.

Software Implications: Both TRACS and TRACS software programs will require an update to allow users to generate Move-in or Initial 50059s for households with applicant members under the age of 6 with no valid SSN entered. Right now, TRACS will issue a Fatal Error on a Move-In or Initial Certification with a child under the age of 6 with eligible citizenship status and no valid SSN or valid SSN exception code on the 50059.

Delays in this software update and TRACS acceptance of these move-in 50059s may impede the owner's ability to transmit the Move in certification to TRACS and subsequently, view EIV income information on the household 90 days after the transmission. Stay tuned to PMCS to learn how TRACS will accommodate these transmissions on an interim basis.

Policy Implications: Owners **must** immediately update their Tenant Selection Plans to incorporate this modified regulation when discussing SSN verification requirements for **applicant** households. Deliberate wording is important, as **not** all applicant households with members under the age of 6 are eligible for this extension.

Procedural Implications: Site level staff **must** be trained on this new rule so as to modify their applicant interviewing procedures to identify how long a child under the age of 6 has been a member of the applicant household in order to determine if the extension can be granted. Remember, the extensions are only granted to those households that had the addition of the "under age 6 minor" within the last six months.

Part IV. (New) Changed Regulations for Verifying Income from "Fixed Income" sources.

This provision does not apply to the Rent Supplement, Section 236, Section 221 (d) (3) or (d) (5) programs.

This last provision is a welcome change that should translate into reduced verification delays for recertifications of families with fixed income sources. First, let's define a "fixed income source". These are periodic payments received at reasonably predictable levels from:

- Annuities or other retirement benefit programs
- Insurance policies
- Social Security and/or Supplemental Security Income
- Supplemental Disability Insurance
- Federal, state, local, or private pension plans
- Disability or death benefits
- Any other source of income subject to adjustment by a verifiable Cost of Living Adjustment (COLA) or current rate of interest.

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BREAKING NEWS

HUD Rule Streamlining Rent Regulations (continued)

The regulations at 24 CFR 5.657 have changed to **permit an owner** (meaning utilization of this new method is optional) to use a streamlined income **verification** measure specifically, and only for, these fixed income sources. For these fixed income sources, owners **must** obtain third-party verification of the income amounts every three (3) years. In the interim, streamlined income determination can be performed by applying, for each fixed-income source, either the verified cost of living adjustment (COLA) or the current rate of interest to the previously verified adjusted-income amount. Any non-fixed sources of income remain subject to third party verification.

It is critical that owners interpret this new regulation correctly. The new rule speaks to the frequency owners must **verify** fixed income sources. It does **not** change the frequency by which owners must **create** tenant certifications for these households. The requirement to create and transmit Annual and Interim Recertifications (when applicable) has **not** changed.

Before owners begin utilizing this “streamlined” verification option, they must prepare for logistical challenges implementation may create. Specifically:

- Each household with fixed income sources will have a 3-year period that is unique to them and based on the date the original verification document was received by management.
 - That means the 3-year period will need to be individually monitored for each household prior to completing any new AR or IR certifications using these interim verification methods. PMCS recommends owners start the 3-year period with a Move-in/ Initial/ or Annual Recertification and not with an Interim Recertification.
 - Owners that perform mass annual recertifications will need to decide whether the Move-In/ Initial Certification or the Annual Recertification verification will be used to define the start of the 3-year period for verification purposes.
 - It is not specified in the Rule what date marks the end of the 3-year period and how concisely HUD intends the 3-year period to be calculated.
- This voluntary method conflicts with published regulations regarding the mandatory use of EIV as the initial level of verification (per HUD’s new hierarchy discussed in HUD Handbook 4350.3, REV-1, Change 4) when performing Annual and Interim Recertifications.
 - Modifications to these procedures may have a conflicting impact on the language in any written recertification procedures and EIV Policies and Procedures used by property staff.
- Lastly, it is unclear whether it is HUD’s intention that a printed *EIV Income Detail Report* can serve as the initial third party verification document that can, in turn, be relied upon in subsequent certifications processed during the 3-year period or if a traditional award letter must be obtained.
- PMCS recommends that owners that choose to implement streamlined verification procedures for fixed income sources clearly document the date such new measures were implemented. This will aid in justifying allowable changes in verification documents maintained in some tenant files.

As with any significant regulatory change published for the industry, there are questions being posed and clarification sought regarding these new provisions. Stay tuned to PMCS’ Industry News posting for further information and guidance to be published by HUD.

INDUSTRY NEWS

HHS and EIV System Computer Matching Temporarily Suspended

Via RHIP Listserv #352, issued March 17, 2016, HUD advised the industry that the regularly scheduled computer matching between Health and Human Services (HHS) and EIV for March 2016 would **not** occur as scheduled. What does this mean for Owners using EIV for income verification purposes?

In essence, this means that the regularly scheduled “sync” between the information in HHS’ databases for new hire information, wage income, and unemployment benefits and what appears in EIV will **not** be updated in March as originally planned. The RHIP Listserv did not provide an explanation for the temporary suspension.

This does **not** mean that information in EIV will be grossly outdated. The last reconciliation of data occurred between the two systems on February 29, 2016. Therefore, this gap in the scheduled data matching should have a minimal impact on the integrity of the EIV data, so long as the suspension is temporary.

During the suspension, owners/agents should resort to third party verification methods for wage and unemployment income sources (as detailed in Appendix 3 of HUD Handbook 4350.3) and continue with this procedure until HUD notifies the industry that the computer matching with HHS has resumed. HUD recommends Owners document the tenant files that have been affected by this outage. An example of acceptable documentation would be to include a copy of the RHIP Listserv message in the tenant file.

This suspension will **not** affect the integrity of the Social Security income information displaying in EIV. Scheduled computer matching between Social Security Administration (SSA) and EIV will continue to occur.

2016 Webinar Schedule

Visit our website for a complete listing of [2016 webinars](#).



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Updated FAQ Published Regarding Transfer of Budget Authority Under Section 8 (bb)(1)

In an effort to preserve affordable housing nationwide, HUD now offers an alternative option to owners of Project-Based Section 8 properties wishing to exit the program. This option preserves the inventory of available units by allowing the owner to transfer all or a portion of any remaining budget authority of his/her project-based Section 8 Housing Assistance Payments (HAP) Contract to one or more contracts under Section 8 (bb)(1) of the United States Housing Act of 1937. The Contract Administrator/HUD Office and the owners on both sides of the transaction must mutually agree.

On March 14, 2016 the Office of Multifamily Housing issued [updated responses](#) to a number of questions pertaining to these Section 8 (bb)(1) transactions. These responses are in addition to those originally released on February 18, 2016.

As the Office of Multifamily Housing formulates additional responses to questions submitted, the Department will continue to issue updates to this document. For more information on how the policies impact your particular project, please contact your CA or your Account Executive in your regional office. General policy questions can still be sent to 8bbor214questions@hud.gov.

INDUSTRY NEWS

2016 Income Limits Have Been Published

On March 28, 2016, HUD released the [2016 Income Limits](#). Owners of properties participating in HUD’s Multifamily Housing Programs **must** utilize these limits when processing Move-Ins and Initial Certifications effective March 28, 2016 or later.

For those owners participating in the Low Income Housing Tax Credit (LIHTC) Program, a separate table of income limits is utilized for income eligibility determinations on tenant income certifications (TICs). This table, called the Multifamily Tax Subsidy Project Income Limits, is available [here](#). Unlike the immediate implementation deadline for the HUD income limits, LIHTC income limits **must** be implemented on Initial TICs within 45 days (by May 12, 2016).

Owner/Agents are responsible for verifying that the correct HUD and/or LIHTC income limits are incorporated into their compliance software. Owner/Agents will need to reference their vendor instructions for specific guidance regarding how to make this update in their software. Please note, if PMCS processes your certifications and vouchers, we will update these limits in the software for you.

Below are two questions we have been asked regarding the correct implementation of income limits:

Question:

I know I have to incorporate the new limits on any Move-In or Initial Certification effective March 28, 2016 or later. However, **must** I re-run any **Annual or Interim Recertifications** effective **after** March 28, 2016, but signed by the resident **before** March 28, 2016?

Answer:

Since in-place households are **not** subject to income limits during the recertification process, HUD does not require owners to re-process Annual or Interim Recertifications effective after March 28, 2016 and signed before this date.

Question:

In reviewing the Income Limit tables on HUD’s website, I noticed that several of the Extremely Low Income Limits and Very Low Income Limits for a given county are the same. I also noticed that several different counties all have the same Extremely Low Income Limit of \$24,300. Why is that?

Answer:

The fact that several Extremely Low Income Limits equal the Very Low Income Limits is intentional and correct. In July 2014, HUD redefined the Extremely Low Income Limit as “a low-income family whose income does **not** exceed the greater of 30 percent of the area median income or the federal poverty guideline for that household size.” Prior to this definition modification, the federal poverty level did **not** play a role in determining income limits.

For reference, here are the 2016 published Poverty Guidelines:

2016 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA	
Persons in family/household	Poverty Guideline
1	\$11,880
2	\$16,020
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INDUSTRY NEWS

2016 Income Limits Have Been Published (continued)

When determining the Extremely Low Income Limit for a specified county or Metropolitan Statistical Area (MSA), HUD processes two mathematical comparisons in sequence:

1. First, using a 4-member household, HUD determines the higher of 30% of the area median income and the 2016 poverty guideline for a 4-member household.
2. Next, HUD caps the resulting figure from Step 1 at the Very Low Income amount (if necessary).

Here is an example of how this works:

Cherokee County, North Carolina has a Median Family Income (MFI) of \$44,300.

Step # 1: 30% of \$44,300 is \$13,290. Compare this to the poverty guideline for a 4-member household, which is \$24,300. The resulting figure is the higher of the two, \$24,300.

Step #2: Cap the resulting figure from Step 1, \$24,300, at the Very Low Income Limit for a 4-member household, which is \$24,150. The Extremely Low Income Limit for Cherokee County, North Carolina is \$24,150.

As an industry, we are accustomed to the simplified definition of Low-Income Limits as 80% of the median income and Very Low-Income as 50% of the median income. However, HUD has made some adjustments to the formulae to eliminate anomalies. For this reason, and to ensure you are using the correct income limits, we strongly recommend you use the [HUD's FY 2016 Income Limits Documentation System](#) to confirm the income limits for your area and **not** attempt to arrive at the numbers mathematically on your own for the various household sizes.

Note: *A detailed explanation and illustration of adjustments made in each income limit area are available on HUD's FY 2016 Income Limits Documentation System, when you click on the dark-blue "Explanation" tab displayed on the table.*