

# FACT SHEET

## For HUD ASSISTED RESIDENTS

### Project-Based Section 8 “HOW YOUR RENT IS DETERMINED”

Office of Housing

XX/XX/XXXX

*This Fact Sheet is a general guide to inform the Owner/Management Agents (OA) and HUD-assisted residents of the responsibilities and rights regarding income disclosure and verification.*

#### Why Determining Income and Rent Correctly is Important

OAs and residents have a responsibility in ensuring that the correct rent is paid, in accordance with the applicable laws and HUD's regulations.

#### OAs' Responsibilities:

- Obtain accurate income information
- Verify resident income
- Ensure residents receive the exclusions and deductions to which they are entitled
- Accurately calculate Tenant Rent
- Provide tenants a copy of lease agreement and income and rent determinations
- Recalculate rent when adjusted income decreases by 10%, or a lower threshold established by the owner
- Recalculate rent when adjusted income increases by 10% or more, unless an exception applies
- Recalculate rent when changes in family composition are reported
- Recalculate rent every 90 days when resident claims minimum rent hardship exemption
- Provide information on OA policies upon request

- Notify residents of any changes in requirements or practices for reporting income or determining rent

#### Residents' Responsibilities:

- Provide accurate family composition information
- Report all income as required
- Keep copies of papers, forms, and receipts which document income and expenses
- Report changes in family composition
- Report when adjusted income increases by more than 10% between annual reexaminations or when adjusted rent decreases
- Report decreases in income
- Sign consent forms for income verification
- Follow lease requirements and house rules

#### Income Determinations

A family's annual income determines not only eligibility for assistance, but also determines the rent a family will pay and the amount of subsidy that the owner will receive on the family's behalf. A family's gross income, subject to exclusions and deductions, is used to determine tenant rent.

#### What is Annual Income?

Gross Income – Income Exclusions = Annual Income

#### What is Adjusted Income?

Annual Income – Deductions = Adjusted Income

#### Determining Tenant Rent

##### Project-Based Section 8 Rent Formula:

The rent a family will pay is the **highest** of the following amounts:

- 30% of the family's monthly *adjusted* income
- 10% of the family's monthly gross income
- Welfare rent or welfare payment from agency to assist family in paying housing costs. OR
- \$25.00 Minimum Rent

#### Income and Assets

HUD assisted residents are required to report **all** income from all sources to the Owner or Agent (OA).

Accounting for exclusions to income and deductions are part of the tenant rent determination process.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income only when net family assets exceed \$50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated. Where the actual asset income can be calculated that amount must be used. When the amount is cannot be calculated, you must impute the asset income. Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate. The passport rate is currently .40% and will be adjusted annually.

### **Annual Income Includes:**

- All amounts received from all sources by each member of the family who is 18 years of age or older, the head of the household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age.
- Full amount (before payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services
- Net income from the operation of a business or profession
- Interest, dividends and other net income of any kind from real or personal property (See Assets Include/Assets Do Not Include below)
- Full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except for deferred periodic payments of supplemental security income and social security benefits, see Exclusions from Annual Income, below)
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except for lump-sum additions to family assets, see Exclusions from Annual Income, below\*\*
- Welfare assistance
- Periodic and determinable allowances, such as alimony and child support payments and regular contributions or gifts received from organizations or from persons not residing in the dwelling
- All regular pay, special pay and allowances of a member of the Armed Forces (except for special pay for exposure to hostile fire)
- For Section 8 programs only, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965, shall be considered income to that individual, except that financial assistance is not considered annual income for persons over the age of 23 with dependent children or if a student is living with his or her parents who are receiving section 8 assistance. For the purpose of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

### **Exclusions from Annual Income:**

- Income from the employment of children (including foster children) under the age of 18
- Payment received for the care of foster children, foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone), or State or Tribal Kinship, or Guardianship care payments
- Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical expenses for any family member
- Income of a live-in aide, foster child, or foster adult
- Subject to the inclusion of income for the Section 8 program for students who are enrolled in an institution of higher education under Annual Income Includes, above, the full amount of student financial assistance either paid directly to the student or to the educational institution
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire
- Amounts received under training programs funded by HUD
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS)
- Amounts received by a participant in other publicly assisted programs which are specifically for or in

reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program

- Resident service stipend (not to exceed \$200 per month)
- Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs and training of a family member as resident management staff
- Income that will not be repeated beyond the coming year
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era
- Earnings in excess of \$480 for each full time student 18 years old or older (excluding head of household, co-head or spouse)
- Adoption assistance payments in excess of \$480 per adopted child
- Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts
- Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit
- Payments from the U.S. Census Bureau for employment relating to the decennial census or the American community Survey lasting no longer than 180 days and not culminating in permanent employment
- Direct federal or state payments intended for economic stimulus or recovery
- Amounts from federal or state refundable tax credits and federal or state tax refunds
- Gifts for holidays, birthdays, or other significant life events or milestones
- Non-monetary in-kind donations received from a food bank or similar organization
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings
- Amounts placed in a Family's Family Self Sufficiency Account
- Insurance payments and settlements for personal or property losses and workers' compensations
- Any amount 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 a person with disabilities

- Payments made to veterans in need of regular aid and attendance
- Payments made by or authorized by a state Medicaid (including through a managed care entity) agency or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit
- Civil rights settlements or judgments, including settlements or judgments for back pay
- Loan proceeds received by the family or a third party where the loan borrower or co-borrower is a member of the family
- Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, where the payments are also excluded from gross income under the Internal Revenue Code or other federal law
- Replacement housing "gap" payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- Assistance received under section 479B of the Higher Education Act where the student is over 23 with dependent children
- Income and distributions from any Coverdell education savings account or any qualified tuition program under section 529 of the Internal Revenue code of 1986, and any income earned by government contributions to, and distributions from, "baby bond" accounts
- Gross income from self-employment or the operation of a business
- Civil rights settlements or judgements, including those for back pay
- Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family

#### **Federally Mandated Exclusions:**

- Value of the allotment provided to an eligible household under the Food Stamp Act of 1977
- Payments to Volunteers under the Domestic Volunteer Services Act of 1973

- Payments received under the Alaska Native Claims Settlement Act
- Income derived from certain submarginal land of the US that is held in trust for certain Indian Tribes
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program
- Payments received under programs funded in whole or in part under the Job Training Partnership Act
- Income derived from the disposition of funds to the Grand River Band of Ottawa Indians
- The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands
- Payments received from programs funded under Title V of the Older Americans Act of 1985
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*
- Payments received under the Maine Indian Claims Settlement Act of 1980
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990
- Earned income tax credit (EITC) refund payments on or after January 1, 1991
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation
- Allowance, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990
- Any allowance paid under the provisions of 38U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act
- Allowances, earnings and payments to individuals participating under the Workforce Investment Act of 1998.
- Any amount received under the Richard B. Russell School Lunch Act and the Child Nutrition Act of 1966
- Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990
- Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts
- Any amounts not received by the family that are eligible for exclusion under 42 U.S.C. 1382b(a)(7) and received for service-connected disability or dependency and indemnity compensation as provided by an amendment to the definition of income under the Native American Housing Assistance and Self-Determination Act (NAHASDA)
- A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2.d 10
- Any amounts in an "individual development account" and any assistance, benefit, or amounts earned by or provided to the individual development account
- Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55
- Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance and comparable disaster assistance provided by States, local governments, and disaster assistance organizations
- Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014
- Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021, section 501(j)), and the American Rescue Plan Act of 2021

#### **Assets Include:**

- Stocks, bonds, Treasury bills, certificates of deposit, money market accounts
- Cash held in savings and checking accounts, safe deposit boxes, homes, etc.

- Cash value of whole life insurance policies available to the individual before death
- Equity in rental property and other capital investments
- Personal property held as an investment over \$50,000
- Lump sum receipts or one-time receipts
- Mortgage or deed of trust held by an applicant
- Assets disposed of for less than fair market value.
- Assets owned by a business entity
- Jointly owned assets

### **Assets Do Not Include:**

- Necessary personal property (clothing, furniture, cars, wedding ring, vehicles specially equipped for persons with disabilities)
- Value of any retirement plan recognized as such by the Internal Revenue Service
- The combined value of all non-necessary items of personal property if the combined value does not exceed \$50,000
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located
- Any amount 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 a person with disabilities
- Value of any Coverdell education savings account covered under section 530 of the Internal Revenue Code of 1986, any qualified tuition program under section 529 of such Code, and the amounts in, contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account under section 529A of such Code.
- The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982
- Family Self-Sufficiency accounts
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt
- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is

not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household

- Interests in Indian trust land
- Assets that are not accessible to the applicant and provide no income to the applicant (Example: A spouse owns a house with her husband, but due to domestic violence, she receives no income from the asset and cannot convert the asset to cash.)
- Assets disposed of for less than fair market value as a result of:
  - Foreclosure
  - Bankruptcy

### **Deductions:**

- \$480 (adjusted annually) for each dependent including full time students or persons with a disability
- \$525 (adjusted annually) for any elderly family or disabled family
- Unreimbursed health and medical expenses and unreimbursed attendant care and auxiliary apparatus expenses of any elderly family or disabled family that total more than 10% of Annual Income
- Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each family member(s) who is a person with a disability to allow any family member(s) to work (including the member with a disability) that total more than 5% of Annual Income
- General relief for families whose unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses have increased and have created a financial hardship that total more than 5% of Annual Income.
- Any reasonable child care expenses for children necessary to enable a member of the family to be employed or to further his or her education.

### **Reference Materials**

#### **Legislation:**

- Quality Housing and Work Responsibility Act of 1998, Public Law 105-276, 112 Stat. 2518 which amended the United States Housing Act of 1937, 42 USC 1437, et seq.
- Housing Opportunity Through Modernization Act of 2016, Public Law 114-201, 130 Stat. 782

#### **Regulations:**

- General HUD Program Requirements; 24 CFR Part 5

**Handbook:**

- 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs

**Notices:**

**“Federally Mandated Exclusions” Notice 66 FR 4669, April 20, 2001**

**“Federally Mandated Exclusions From Income-Updated Listing” Notice 89 FR 6126, January 31, 2024**

**“Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)” Notice 88 FR 9600, February 12, 2023**

**For More Information:**

Find out more about HUD’s programs on HUD’s

Internet homepage at <http://www.hud.gov>