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**ADMISSIONS AND CONTINUED
OCCUPANCY POLICY (ACOP)
FOR
BHA PUBLIC HOUSING
PROGRAMS
Effective:**

May 11, 2023

Summary of Proposed ACOP Changes

Chapter 9 Section 9.2.8 Choice of Rent Calculation Method. Page 97

- Removal of “A higher rent pursuant to the Over-Income Policy

Chapter 9 Section 9.4 Over-Income. Page 100 -101

- Change in the Over-Income Policy.
The “over-income limit” will be determined in accordance with 24 CFR 960.507. Families whose income exceeds the over-income limit for 24 consecutive months will have their tenancy terminated.

9.2.8 Choice of Rent Calculation Method

(a) State Developments

Rent will be determined in accordance with applicable State regulations, the BHA Lease and the BHA Rent Manual.

(b) Federal Developments/AMPs Only

As part of the annual Tenant Status Review (TSR) process, residents in Federal Developments/AMPs will be provided written information about the following two different methods for determining the amount of rent payable by the family, their right to choose the method of determining rent and under what circumstances they may request a change to the method utilized in determining rent. As part of this process, residents will be educated about the benefits of selecting one method over another and will be asked to notify the BHA in writing as to which option they choose, except in cases where the resident is over-income as described below.

(i) Flat Rent

A fixed rent determined for each unit size based on a rent reasonableness study conducted by the BHA pursuant to 24 CFR 960.253 (b) of comparable units available in the private market or 80% of fair market rents (FMRs) as published by HUD annually. Flat rent will be set at the amounts determined by the rent reasonableness study, if such amounts exceed 80% of FMRs and at 80% of FMRs if the amounts determined by the rent reasonableness study are less than 80% of FMRs. On an annual basis the BHA will update the flat rent amounts within 90 days after HUD publishes new FMRs. The new flat rent shall apply to all new admissions and to existing residents at the time of their next scheduled annual Tenant Status Review (TSR). The BHA will maintain a current listing of its flat rent schedule as an appendix to the BHA Rent Manual and will provide this list to residents at least annually as part of the TSR process.

Financial Hardship: Residents who choose flat rents may request to change to an income-based rent at any time if the family is unable to pay the flat rent because of financial hardship. A financial hardship exists for these purposes when a family's income is reduced or their deductions are increased to the extent that an income-based rent is lower than the flat rent.

(ii) Income-Based Rent

Rent determined by the family's income and allowable deductions in accordance with the BHA's Lease, the BHA's Rent Manual and applicable Federal regulations. Types of Income-Based rent include:

- The higher of 10% of Gross Annual Income or 30% of Adjusted Annual Income
- Ceiling Rent – a cap to the amount of income-based rent that a resident may pay for their unit, equal to the Flat Rent amount for the unit
- In the case of mixed families, Prorated Assistance

9.4 Over-Income

State Public Housing – 760 CMR 5.06: Income Eligibility

(2) A household occupying a unit in elderly/handicapped housing shall remain eligible for continued occupancy until such time as 30% of its monthly net household income equals or exceeds the fair market rent (FMR) then in effect for the Section 8 Existing/Voucher Program for a unit of appropriate unit size in the area in which the LHA is located.

(3) A household occupying a unit in family housing shall remain eligible for continued occupancy until such time as 32% of its monthly net household income equals or exceeds the fair market rent (FMR) then in effect for the Section 8 Existing/Voucher Program for a unit of appropriate unit size in the area in which the LHA is located. (4) An AHVP participant shall remain eligible for continued occupancy in a unit until such time as the participant's rent share equals or exceeds the contract rent. The participant shall retain his or her AHVP voucher for 90 days from the date on which the LHA determines that the participant's share equals or exceeds the contract rent. At the end of that period, if the participant's share continues to equal or exceed the contract rent, the household will not be eligible for continued assistance under the AHVP.

Federal Public Housing

The “over-income limit” will be determined in accordance with 24 CFR 960.507. Families whose income exceeds the over-income limit for 24 consecutive months will have their tenancy terminated.

Determination of over-income limit

The over-income limit is set by multiplying the Very Low-Income level applicable for the area and the correct family size by a factor of 2.4. HUD will publish the income limits for each family size annually, and the BHA will calculate and post the over-income limits within 60 days following the effective date of the income limits.

Notifying over-income families

1. If the BHA, during the course of conducting an annual or interim rent redetermination, or at any other time, determines that the family's income exceeds the over-income limit, the family's over-income status will be documented in the family's tenant file and the BHA will send a written notice to the family of the over-income determination no later than 30 days after the income examination. The notice shall state that the family income exceeds the over-income limit and that by continuing to exceed the over-income limit for a total of 24 consecutive months results in the termination of tenancy. The family may dispute the determination by making a written request for a hearing within 30 days of the notice.

2. The BHA must conduct an income examination 12 months after the initial over-income determination. If the BHA determines that the family's income still exceeds the over-income limit, the BHA will send a second notice to the family of the over-income determination no later than 30 days after the 12-month income examination. This second notice shall state that the family income has exceeded the over-income limit for 12 consecutive months and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the termination of tenancy. The family may dispute the determination by making a written request for a hearing within 30 days of the notice.

3. The BHA must conduct an income examination 24 months after the initial over-income determination. If the BHA determines that the family's income has exceeded the over-income limit for 24 consecutive months, the BHA will send a third notice to the family of the over-income determination no later than 30 days after the 24-month over-income examination. The third notice must state that: **(i)** the family's income has exceeded the *over-income limit* for 24 consecutive months and **(ii)** the BHA shall terminate the family's tenancy within six months of the third notice.

The over-income family will continue to be a public housing program participant until the tenancy is terminated and the BHA shall continue to charge the family's choice of income-based, *flat rent*, or prorated rent for mixed households during the period before the lease termination.

The 24 months must be consecutive for the tenancy to be terminated. If the BHA determines that the family is no longer over-income prior to the expiration of the 24-month period, the 24-month period is reset. The household will be entitled to a new 24-month grace period if the household income exceeds the over-income limit at another time.

If the family has been over-income for 24 consecutive months, their tenancy will be terminated even if their income subsequently goes below the over-income limit after the 24-month period.

Reporting Requirements

In accordance with 24 CFR 960.507(f) requirements, as amended, BHA will report the following data as of the end of the calendar year, i.e., December 31st, to HUD:

1. The total number of over-income families residing in public housing; and
2. The total number of families on waiting lists for admission to the public housing developments/AMPs.

Per the regulations, this information must also be made publicly available.

9.5 Use of HUD's Enterprise Income Verification (EIV) System (Federal Only)

The EIV System is a web-based application providing employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of HUD's Office of Public and Indian Housing (PIH). This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058. The EIV system is for use in the federal programs only.