



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Special Attention of: _____ Notice: H-2016-09

Multifamily Program Center Directors

Rural Services (RHS) Directors

Notice: H-2016-09

Issued: October 3, 2016

Expires: This Notice remains in effect

until amended, revoked, or superseded.

Streamlining Administrative Regulations for Multifamily Housing Programs

I. Purpose

This Notice provides implementation guidance for provisions included in the final rule titled “Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs,” also known as the “Streamlining Rule.” Only the provisions that apply to programs administered by the Department of Housing and Urban Development’s (HUD) Office of Multifamily Housing are described in this Notice.

All pertinent provisions of the Streamlining Rule went into effect on April 7, 2016.

II. Applicability

This Notice applies to the following programs:

- A. Project-based Section 8
 - 1. New Construction
 - 2. State Agency Financed
 - 3. Substantial Rehabilitation
 - 4. Section 202/8
 - 5. Rural Housing Services (RHS) Section 515/8
 - 6. Loan Management Set-Aside (LMSA)
 - 7. Property Disposition Set-Aside (PDSA)
 - B. Section 101 Rent Supplement
 - C. Section 202/162 Project Assistance Contract (PAC)

- D. Section 202 Project Rental Assistance Contract (PRAC)
- E. Section 202 Senior Preservation Rental Assistance Contracts (SPRAC)
- F. Section 811 PRAC
- G. Section 811 Project Rental Assistance Demonstration units under a Rental Assistance Contract (PRA)
- H. Section 236
- I. Section 236 Rental Assistance Payments (RAP)
- J. Section 221(d)(3) Below Market Interest Rate (BMIR)

The applicability of specific provisions of the Streamlining Rule is detailed below.

III. Background

The Streamlining Rule will allow for improvements in program operations that reduce costs and enhance efficiency while maintaining HUD's core program oversight functions.

The rule was published on March 8, 2016 and can be viewed at

<https://www.federalregister.gov/articles/2016/03/08/2016-04901/streamlining-administrative-regulations-for-public-housing-housing-choice-voucher-multifamily>.

There are 16 programmatic changes found in this final rule, four of which apply to Multifamily Housing programs. The direction below supersedes prior guidance on these topics. HUD Handbook 4350.3, REV-1 and the TRACS MAT Guide will be updated at a future date to account for these changes in policy.

VI. 24 CFR 5.216 – Verification of Social Security Numbers

A. Applicability

This provision applies to the Rent Supplement, Section 8, Section 221(d)(3), Section 221(d)(5), Section 236, Section 202, and Section 811 programs.

B. Change to Regulation

This provision modifies the regulation at 24 CFR 5.216 as it applies to program *applicants* (as differentiated from program *participants*), and brings the guidance for applicants more closely in line with longstanding guidance for program participants (at 24 CFR 5.216(e)(2)(ii)). The regulation at 24 CFR 5.216 now permits owners to accept applicant households that include an applicant family member who is under the age of 6, who does not yet have a Social Security Number (SSN) assigned to him/her, and was added to the household 6 months or less from the move-in date. As a result of this change, the owner or owner agent (O/A) must no longer deny occupancy to such applicant households.

C. Implementation

When an applicant household with the above composition is housed from the waiting list, the O/A must give the household 90 days from the effective date of their move-in certification to provide documentation of the SSN for the child. An additional 90-day period must be granted by the O/A if the failure to provide documentation of a SSN is due to circumstances that are outside the control of the household. Examples include but are not limited to: delayed processing of the SSN application by the SSA, natural disaster, fire, death in family, etc. During this time period, the child is to be included as part of the household and will receive all of the benefits of the program in which the child is involved, including the dependent deduction. An interim recertification must be processed once the household discloses and provides verification of the SSN for this individual.

D. TRACS Input

TRACS currently has the ability to accept SSNs that meet the requirements of the new regulation, however, purchased site software used by O/As to transmit data to TRACS may not yet have this ability. Because of this, O/As are instructed to input SSNs as described in the two paragraphs below.

1. Pre-Software Change

When completing the SSN field in TRACS for a child who has been added to the applicant household 6 months or less from the move-in date and has not yet been assigned a SSN, the owner must input a SSN of “9999990000” which will permit the household to receive subsidy. This SSN should only be used for move-in (MI) and initial (IC) certifications (see exceptions in Section VI.D.3 of this Notice). When a similar individual is added to an existing household, current guidance instructing use of a “999999999” SSN with an “M” exception code must be followed.

2. Post Software Change

Software developers are working to update their software which will allow the system to accommodate this change in regulation. Once owners are informed their software has been updated, all SSNs of “9999990000” must be edited according to the procedure below through an interim recertification (IR). This will allow for accurate tracking by HUD.

When completing the SSN field in TRACS for a child who has not yet been assigned a SSN, the owner must input a SSN of “999999999” with a “M” SSN exception code. These inputs will permit the flow of subsidy to the household. At the time of the disclosure of the SSN, an interim recertification must be processed changing the child’s SSN from the “999999999” placeholder to the child’s verified SSN and removing the SSN exception code. More information relating to SSN input in TRACS can be found in the TRACS MAT Guide located at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/trx/trxdocs.

3. Exceptions for inputting a SSN of “999990000” on an Interim (IR) or Annual (AR) Recertification

There are cases after the MI or IC where an IR or AR could be submitted before the end of the time required to obtain an SSN outlined in Section VI.C of this Notice. Examples for an IR include but are not limited to: increase or decrease of income, household addition or subtraction, etc. An example for an AR includes owners that have a mass recertification schedule and the recertification is effective before an SSN has been obtained. If such an IR or AR is needed follow the Pre-Software Change or Post Software change rules as applicable.

- a. If the owner is in a Pre-Software change situation, the SSN field would be filled with “999990000” and there would be no exception code.
- b. If the owner is in a Post Software change situation, the SSN field would be filled with “999999999” and the exception code would be “M.”

E. Penalties for Non-Disclosure of a Household Member’s SSN

The penalty associated with the failure to disclose and provide verification of a household member’s SSN is termination of tenancy. As stated in HUD Handbook 4350.3, REV-1, paragraph 8-13.A.6, the owner must terminate the tenancy of a tenant and the tenant’s household if the SSN disclosure and verification requirements for all household members are not met in the specified timeframe. Proration of assistance is not permitted for household members who are required to obtain SSN but fail to disclose and provide verification of this SSN.

F. Housing Assistance Payments During Eviction Proceedings

An owner may continue to receive housing assistance payments for the unit occupied by the family in question during eviction proceedings and these payments must continue until the eviction is upheld and the household is actually evicted. This practice is consistent with existing procedure and FAQ 143 for HUD Handbook 4350.3, REV-1.

In the case of evictions not upheld through judicial proceedings the family is permitted to continue occupying the assisted unit and the owner will continue to receive housing assistance payments for that unit. The SSN will be entered as described in Paragraph C.2 above until a SSN is obtained.

G. Implementation

The regulatory change was effective beginning April 7, 2016. Site software used by the O/A to transmit data to TRACS is expected to be updated by February 2017.

V. 24 CFR 5.603 – Definition Change – Extremely Low Income

A. Applicability

This provision applies to the Section 8 program.

B. Change to Regulation

The regulation at 24 CFR 5.603 has been changed to reflect the new statutory definition of an extremely low-income family in accordance with Section 238 of HUD's FY 2014 Appropriations Act, which amended Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a). Previously, there was no statutory definition of extremely low income families, and the regulatory definition did not take the federal poverty level into consideration. The revision defines an extremely low-income family as a family whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level. The federal poverty level provision in the definition of an extremely low-income family does not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States.

C. Posting of Income Limits

HUD determines income limits, including the income limit for the newly defined extremely low-income family, for all areas in the United States annually and publishes these income limits on the HUDUSER website at www.huduser.gov/portal/datasets/il.html. O/As do not need to research or determine the federal poverty level, or income limits in general, as all HUD-published extremely low-income dollar amounts are calculated in accordance with the new definition and are posted for each region.

D. Implementation

Section 8 property owners must use the extremely low-income limit when selecting applicants to fulfill the income-targeting requirements described in paragraph 4-5 of HUD Handbook 4350.3, REV-1. As detailed in the TRACS MAT Guide, the extremely low-income limit is to be populated into software used by owners in processing tenant data.

The definition change was established as HUD policy on July 1, 2014, through Federal Register Notice (79 FR 35940) *HUD Implementation of Fiscal Year 2014*

Appropriations Provisions on Public Housing Agency Consortia, Biennial inspections, Extremely Low-Income Definition and Utility Allowances. It is reflected in published income limits now being utilized by O/As.

VI. 24 CFR 5.609 – Definition Change – Exclusion of mandatory education fees from income

A. Applicability

This provision applies to the Section 8 program (other than Moderate Rehabilitation).

B. Change to Regulation

The regulation at 24 CFR 5.609 amends the definition of “income” to exclude from calculations of individual income any financial assistance received for mandatory fees and charges (in addition to tuition).

C. Background

The change is made to conform regulations to language first enacted in the FY 2012 HUD Appropriations Act, and continued in each subsequent appropriation. Current law requires that any amount of financial assistance an individual receives in excess of amounts received for tuition and other required fees and charges be considered income when determining an applicant’s or participant’s annual income.

D. Implementation

Implementation guidance for this change is found in Housing Notice 2015-12 which elaborates on the phrase “and any other required fees and charges” by amending the term “tuition.” In addition to the new definition of tuition, the Notice provides examples for calculating income using this new definition and explains how to verify tuition and fees.

The definitions promulgated through Notice H 2015-12 continue to be in effect for multifamily properties.

VII. 24 CFR 5.657 – Section 8 project-based assistance programs: Reexamination of family income and composition

A. Applicability

This provision applies to the Section 8 (other than Moderate Rehabilitation), Section 202, and Section 811 programs.

B. Change to Regulation

The regulation at 24 CFR 5.657 – applicable to project-based Section 8 participants only – has changed to permit an owner to use a streamlined income determination for any family member with a fixed source of income. A streamlined income determination is made 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 or adjusted-income amount. Any non-fixed sources of income must be verified using third party verification as described in Chapter 5, Section 3 of HUD Handbook 4350.3, REV-1.

C. Implementation

1. O/As have the discretion to adopt a streamlined income determination for fixed sources of income belonging to current project-based Section 8 program participants. This method may be used to adjust income on the two annual recertifications following the annual recertification (or move-in certification) in which the income was verified through third-party verification. The O/A must verify all income, both fixed and non-fixed, every third year.
2. In situations where a household has a combination of fixed income and non-fixed income, O/As can use the streamlined income determination for the fixed income and must verify all non-fixed income through third party verification. Streamlined income determination is not applicable for individuals who are not yet participants.
3. Tenants may instruct owners not to use the streamlined income determination to determine their income. In that case, third party verification will be required for all income sources.

Example			
3/1/2017	Move-in Certification	Fixed Income	Third Party Verify
		Non-Fixed Income	Third Party Verify
3/1/2018	Annual Recertification	Fixed Income	Use of Adjustment Factor Permitted
		Non-Fixed Income	Third Party Verify
3/1/2019	Annual Recertification	Fixed Income	Use of Adjustment Factor Permitted
		Non-Fixed Income	Third Party Verify
3/1/2020	Annual Recertification	Fixed Income	Third Party Verify
		Non-Fixed Income	Third Party Verify
3/1/2021	Annual Recertification	Fixed Income	Use of Adjustment Factor Permitted
		Non-Fixed Income	Third Party Verify
3/1/2022	Annual Recertification	Fixed Income	Use of Adjustment Factor Permitted
		Non-Fixed Income	Third Party Verify
3/1/2023	Annual Recertification	Fixed Income	Third Party Verify
		Non-Fixed Income	Third Party Verify

D. Definition of Fixed Income

When implementing a streamlined income determination, an O/A must first determine if the source of income is fixed and document how this determination was made. This determination is only needed prior to the first time streamlined income determination is used.

For purposes of this Notice, the term “fixed income” includes income from:

- Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Disability Insurance (SSDI);

- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

E. Determination and Application of the Adjustment Factor

To apply an adjustment factor (verified COLA or the current rate of interest to the previously verified or adjusted-income amount) to a fixed source of income, the O/A must first verify all adjustment factors from either a public source or from tenant-provided, third party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained. Once an adjustment factor is obtained, verified, and documented in the tenant file, the O/A will then apply the applicable factor to the previously verified or adjusted income amount. This amount is then recorded as income on the household's form HUD-50059.

F. Effect on Use of the Enterprise Income Verification (EIV) System

In the years when an O/A elects to utilize streamlined income determination, the fixed source of income does not have to be verified using the EIV system. The O/A may, however, use the EIV system at his/her discretion and as indicated in the property's policies and procedures. All non-fixed sources of income remain subject to full income-verification requirements.

G. Additional Information

The following regulations have been updated to permit an owner to follow the provisions of 24 CFR 5.657(d): 880.603, 884.218, 886.124, 886.324, 891.410, 891.610, and 891.750.

VIII. Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2502-0204. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

IX. Contact

For more information on the guidance provided in this Notice, please contact Danielle Garcia in the Office of Asset Management and Portfolio Oversight at Danielle.D.Garcia@hud.gov.

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