

HOTMA SECTIONS 102 & 104

UPDATED GUIDANCE ON PHA COMPLIANCE

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PIH 2024-38

ISSUED DECEMBER 17, 2024

Identified which income and assets provisions from Section 102 & 104 of HOTMA that PHAs must comply with no later than **July 1, 2025**

- Supersedes, in part, Section 6.1 of PIH 2023-27
- HUD issued letter to Executive Directors December 19, 2024

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HUD ENFORCEMENT

PRIOR TO JULY 1, 2025

Earned Income Disregard {24 CFR 5.611}

- EID will NOT apply to any family that was not eligible for and already participating in the disregard as of December 31, 2023
- PIH 2023-27, Attachment G, Section G.20

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HUD ENFORCEMENT

PRIOR TO JULY 1, 2025

Form HUD-9886-A {24 CFR 5.230 and 5.232}

- HUD issued letter on February 23, 2024, that PHAs could begin using the new HUD-9886-A
- Form HUD-9886 expired January 31, 2025
- PHAs should have transitioned to using form HUD-9886-A by February 1, 2025
- PHA must also implement policies related to the revocation of consent
 - PIH 2023-27, Attachment J, Section J

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HUD ENFORCEMENT

Income Exclusions {24 CFR 5.609(b)}

- **MUST** utilize the list of income exclusions for all income exams with an effective date on or after July 1, 2025
- There are 21 new and revised exclusions
 - *Please note that PIH 2023-27 does not reference all income exclusions*

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EXCLUDED INCOME

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

- *** Imputed Income from Assets when Net Family Assets total \$51,600 or less *** **HUD has clarified in a FAQ issued 02/25/2025 that they will NOT be enforcing compliance of this exclusion until Section 102 and 104 are fully implemented**
- Insurance payments and settlements for personal or property losses, including health insurance, motor vehicle insurance, and workers' compensation
 - Per PIH 2023-27, any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments

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EXCLUDED INCOME

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

- **NONRECURRING INCOME:** Income that won't be repeated in the coming year based on information provided by the family
- U.S. Census Bureau for employment lasting no longer than 180 days
 - Direct Federal or State economic stimulus payments
 - Federal or State tax credits or refunds at the time they are received
 - Gifts
 - In-kind donations
 - Lump-sum additions to Net Family Assets (e.g., lottery winnings)

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EXCLUDED INCOME

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

- Payments related to aid and attendance to veterans in need of regular aid and attendance
- Exclusion applies **ONLY** to veterans and not to other beneficiaries of the payments, such as a surviving spouse
- Payments made or authorized by State Medicaid or other State or Federal Agency to enable a disabled family member to reside in an assisted unit

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EXCLUDED INCOME

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

→ Student Financial Assistance

- All Title IV HEA Assistance is excluded from income
 - Even financial assistance provided to students exceeding actual covered costs
- Other Student Financial Assistance specifically used to cover the costs of Actual Covered Costs
 - Other financial assistance exceeding actual covered costs is will not be considered “financial assistance” and WILL BE INCLUDED in Annual Income

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TITLE IV

HEA ASSISTANCE

- | | |
|-------------------------------|--|
| → Federal Pell Grants | → Student Financial Assistance Received Under the Bureau of Indian Education |
| → Teach Grants | |
| → Federal Work Study Programs | → Higher Education Tribal Grant |
| → Federal Perkins Loans | → Tribally Controlled Colleges or Universities Grant Program |

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TITLE IV

HEA ASSISTANCE

- Includes income earned in employment and training programs under Section 1345 of the Workforce Innovation and Opportunity Act (WIOA)
- Workforce investment activities for adults and workers dislocated as a result of:
 - Permanent closure or mass layoff at a plant, facility, enterprise, or
 - Natural or other disaster that results in mass job dislocation

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ACTUAL COVERED COSTS

- Tuition
- Books and supplies
- Room and board
- Other required fees and charges
- For student who is not the HoH or Spouse
 - The reasonable and actual costs of housing while attending and not residing in an assisted unit

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CALCULATING EXCLUDED STUDENT FINANCIAL ASSISTANCE

→ When the student is receiving financial assistance under both categories:

- The Title IV HEA Assistance must be applied first
- Other student financial assistance will be applied to any remaining actual costs
 - Any remaining student financial assistance is considered income

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TREATMENT OF STUDENT FINANCIAL ASSISTANCE **HCV PROGRAM ONLY**

Any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the HEA of 1965, from private sources, or from an institution of higher education, shall be considered income to that individual, except for a person over the age of 23 with dependent children

- HUD interprets that a person over the age of 23 is 24 years old

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TREATMENT OF STUDENT FINANCIAL ASSISTANCE

HCV PROGRAM ONLY

For any funds from a year that includes the Section 8 student financial assistance limitation, if the student is the HoH, Spouse, or Co-Head and is under the age of 23 or without dependent children, both assistance received under Title IV HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total amount of tuition and other required fees and charges

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TREATMENT OF STUDENT FINANCIAL ASSISTANCE

HCV PROGRAM ONLY

If Section 8 student is HoH, Spouse, or Co-Head and is over the age of 23 with dependent children, student financial assistance will be treated the same as those students in the Public Housing program

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CALCULATION OF FINANCIAL ASSISTANCE

HCV PROGRAM ONLY

1. Determine the student's relationship to the household, age, and whether the student has a dependent children
2. Calculate whether any excess student financial assistance should be included in the family's income

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CALCULATION OF FINANCIAL ASSISTANCE

HCV PROGRAM ONLY

Student \leq 23 Years Old

If the student is the HoH, spouse, or co-head and is 23 or younger and does not have dependent children, Title IV HEA Assistance will be part of the total equation

Student $>$ 23 Years Old

If the student is over 23 with dependent children, the calculation will be the same as public housing and non-Section 8 programs

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HUD ENFORCEMENT

Definitions {24 CFR 5.100, 5.403, 5.603}

- **MUST** use the following definitions for all transactions with an effective date on or after July 1, 2025

- | | |
|--------------------------|------------------------------------|
| ▪ Earned Income | ▪ Dependent |
| ▪ Unearned Income | ▪ Foster Child |
| ▪ Family | ▪ Foster Adult |
| ▪ Day Laborer | ▪ Health and Medical Care Expenses |
| ▪ Independent Contractor | ▪ Minor |
| ▪ Seasonal Worker | |

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DEFINITIONS

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

Day Laborer

- Individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future
- NOT considered Nonrecurring Income and **MUST** be **INCLUDED** in Annual Income

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DEFINITIONS

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

Independent Contractor

- An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are subject to the self-employment tax
- NOT considered Nonrecurring Income and MUST be INCLUDED in Annual Income
 - Examples: Rideshare Driver and Babysitters

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DEFINITIONS

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

Seasonal Worker

- An individual who is:
 - Hired into a short-term position (6 months or less); and
 - The employment begins about the same time each year
- NOT considered Nonrecurring Income and MUST be INCLUDED in Annual Income

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DEFINITIONS

INCOME DETERMINATIONS *EFFECTIVE JULY 1, 2025*

Unreimbursed Health and Medical Care Expenses

- Costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body
 - Includes medical insurance premiums and long-term care premiums
- HUD is **NOT PERMITTING** PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included

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HUD ENFORCEMENT

BEGINNING JULY 1, 2025

De Minimis Errors {24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655}

- PHA will not be considered out of compliance solely due to de minimis errors in calculating family income
- De minimis errors occur when the determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income)
- Must revise Admin Plans, ACOPs, and Tenant Selection Plans to reflect how they will repay or credit a family the amount they were overcharged as a result of the de minimis error

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DISCRETIONARY POLICIES THAT CAN BE IMPLEMENTED NOW

→ Safe Harbor Verifications

- If PHA chooses to adopt this policy while in PIC, must list annual income on the 50058 for the HoH using the “Other Non-Wage Sources” income code

→ May choose to use EIV to verify tenant employment and income info at Interim Reexams

- Must include this info in ACOP and/or Admin Plan
- Must establish in PHA written EIV policies and procedures

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POLICY REQUIREMENTS

→ Regardless of whether the new and revised income exclusions and definitions are listed in ACOP, PHA must begin using for all income calculations effective July 1, 2025

→ If ACOP currently includes a list of exclusions and definitions, PHA must either remove the list, or update it

→ The discretionary policies must be formally adopted by the BoC BEFORE implementation

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IN CONCLUSION...

- REMINDER: HUD will **NOT** be enforcing compliance with any other provision of Section 102 and 104 at this time
- HUD will issue further guidance on the compliance deadline for all other provisions

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