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“Making Affordable Housing Work Act of 2018”: HUD’s proposed Rent Reforms and Work Requirements

On April 25, 2018, HUD Secretary Dr. Ben Carson released a legislative package to comprehensively reform rent structures in HUD’s rental assistance programs. The proposal, which requires congressional approval, is titled the “Making Affordable Housing Work Act of 2018” and would affect all rental assistance programs, including Public Housing (PH), Housing Choice Vouchers (HCVs), and Project-Based Rental Assistance (PBRA) programs.

In a press release, the HUD Secretary said of the proposal: “Currently, Congress requires HUD-assisted households to contribute 30 percent of their adjusted income toward rent while the government pays the difference, up to a maximum amount. This approach, with its complicated set of income certification requirements, imposes substantial administrative burdens on PHAs and owners and may suppress residents’ earned income.”

The administration’s efforts to reform affordable housing rent structures began with the President’s Budget Requests from Fiscal Years 2018 and 2019, which proposed rent reforms such as raising or establishing minimum rents, eliminating certain utility reimbursements, and even freezing certain management fees for one year. After congressional appropriators rebuffed the reforms as part of the appropriations process, the Department has now released the proposal in the form of administrative legislation. Below are some highlights from the bill’s text.

Rent Structures and Verifications

According to HUD’s press release, the Department “is proposing a simplified structure of ‘core rents’” that could be designed by the Secretary or by PHAs and owners, as long as they serve the same number of people and provide hardship exemptions. Examples of alternative rent structures include “tiered” rents, where rents are determined within income bands with the intent to relieve administrative burden and to remove disincentives to increased earnings within each band; “stepped” rents, where rents are increased gradually on a pre-determined schedule to incentivize self-sufficiency over time; and timed

escrows, where rent increases due to change in income levels are placed into an escrow account made available to the family upon program exit.

Additionally, annual income verifications would be reduced to every three years; interim income verifications that result in *higher* rents would be prohibited; and the threshold for triggering interim verifications resulting in *lower* rents would be greater (harder to achieve, therefore less frequent). The reduced verification frequency aims to minimize administrative burden, incentivize increased income earning and reporting, and reduce the disincentive to two-parent households in which both adults have earned income.

Rent Calculations

In addition to the efforts at reducing burden and incentivizing earnings, the proposal also increases a number of requirements on HUD-assisted residents. Minimum rents for non-elderly and non-disabled households would be increased to approximately \$150 per month or higher (three times the current level), while minimum rents for elderly and disabled households would be set at \$50 per month. The bill also gives the Secretary the authority to raise the minimum rent through regulation.

Tenant contributions to the rent would also be increased to 35% (or 30% for new elderly and disabled households) of gross income, which represents a 5% increase that is magnified by removing significant deductions from the calculation, such as for medical expenses. In the absence of a “hold harmless” provision, currently-assisted elderly and disabled households would not be exempt from rent increases; however, the increases would be phased in over a number of years, as opposed to immediately following enactment.

Work Requirements

The proposal allows PHAs and owners to impose work requirements on families and individuals receiving rental assistance, except for disabled or elderly households (every adult in the household must be disabled or over 65 to be exempt). Under the proposal, the Secretary can designate through regulation other types of households that would qualify for exemptions, as well as maximum hourly requirements and qualifying activity types. PHAs and owners who impose work requirements would be exempt from imposing community service and self-sufficiency requirements.

According to a recent article published by the American Enterprise Institute, “helping people on Medicaid, SNAP, and housing assistance get to work is the best way to help them attain incomes above the poverty level. It will also help such people improve their health and gain a sense of dignity, ultimately making their communities stronger.”

However, there is debate over how best to help HUD-assisted households access the labor market. The Center for Budget and Policy Priorities (CBPP) recently published an article in response to HUD’s work requirement proposals, saying that “most rental assistance recipients who can work do, but low-wage workers often have unpredictable hours, ranging from 40 hours in some weeks to just a fraction of that amount in others.”

The CBPP article goes on to say that “many rental assistance recipients seeking work would not have access to training to prepare them for available jobs, transportation to job sites, or subsidies to help care for children or for family members who are ill or have disabilities...[Instead], policymakers who want to help rental assistance recipients succeed should focus on strengthening two HUD initiatives (Jobs Plus and Family Self-Sufficiency) that use service coordination and incentives to support work and have shown promising results without the risks of punitive work requirements.”

Other Considerations

Because there is no “hold harmless” provision for newly-assisted elderly and disabled households, property managers would need to maintain parallel rent rules for similar households depending on when they began receiving assistance.

In addition, for rent-setting and work requirement purposes, the proposal changes the definitions of “elderly” and “disabled” households to require every adult member of the household to be over 65 or disabled. In order to be exempt from work requirements, or in order to qualify for the lower minimum rents and contribution levels allotted to seniors and disabled families, every member of the household would need to be at least 65 years of age or disabled, excluding caregivers or live-in aides. The definition change is only for rent calculation, interim income examinations, and work requirement purposes, not for program eligibility.

Below is an in-depth look at the proposal.

Reform	“Making Affordable Housing Work Act of 2018”: HUD Legislative Proposal
Tenant Rent Contribution	<p><u>For all rental assistance programs (excludes elderly and disabled households):</u> Increase tenant rent contribution from 30% of adjusted income to 35% of gross income (not adjusted by deductions)</p> <p><u>For Elderly or Disabled Households:</u> 30% of gross income (not adjusted by deductions), or minimum rent. For currently-assisted elderly or disabled households, phased increases over two triennial recertifications (temporary “hold harmless” provision)</p>
Minimum Tenant Rent	<p><u>For all rental assistance programs (excludes elderly and disabled households):</u> Set minimum as amount earned from working at least 15hrs per week at federal minimum wage (approximately \$150) → number of hours per week used in calculation can be adjusted higher by Secretary</p> <p><u>For Elderly or Disabled Households:</u> Set minimum rent contribution at \$50 per month → can be adjusted higher by HUD Secretary</p>
Income Verifications	<p><u>For all Rental Assistance Programs:</u> In order to incentivize increased tenant earnings and reporting accuracy, make the following changes:</p> <ul style="list-style-type: none"> • Reduce frequency of family income reviews used to calculate tenant rent contributions from annual to triennial

	<ul style="list-style-type: none"> Prohibit interim reexaminations that result in higher family rents, providing incentives for increased earnings and for adding additional family members to the lease; increase threshold for interim reexamination at family’s request to a minimum decrease of 20% For elderly, disabled, or other households as defined by the Secretary, maintain 10% decrease threshold for at-request reexaminations
Alternative Rent Structures	<p><u>For all Rental Assistance Programs:</u> Allow for the creation of the following rent structures (and allow the Secretary to change frequency of income reviews to facilitate alternative rent structures):</p> <ul style="list-style-type: none"> Secretary-established rents (non-exhaustive examples include tiered rents, stepped rents, timed escrows); must serve at minimum the same number of people and include hardship provisions PHA/Owner-established rents (of their own design); subject to HUD approval through criteria and standards established by the Secretary, which must include hardship exemptions
Rent and Income Calculations	<p><u>For all Rental Assistance Programs:</u></p> <ul style="list-style-type: none"> Use current income as the default to ensure accurate information in calculating rents; remove ability to use prior year income determinations (due to the switch to triennial certification cycles, which would render income information out-of-date); exceptions available for income that is seasonal or sporadic, matching current policy Exclude from income amounts and benefits from ABL accounts and grants/scholarships for school and training Exclude currently imputed return on assets valued at under \$50,000 Exclude actual returns on net family assets under \$25,000; lowers threshold for self-certification of assets for assets under \$25,000 (current policy is assets under \$50,000) Defines monthly income as family’s annual income divided by 12
Work Requirements	<p><u>For all Rental Assistance Programs:</u></p> <ul style="list-style-type: none"> Allow PHAs and owners to impose work requirements on families and individuals, subject to criteria and standards established by the Secretary (excluding families or individuals that are disabled, 65 years or older, or criteria defined by the Secretary)
Definition of Certain Households	<p><u>For all Rental Assistance Programs:</u> For rent setting purposes, interim income examinations, and work requirement purposes, redefine elderly/disabled households to require all adult household members to be 65 years or older/disabled, excluding caregivers (not for determining eligibility for assistance)</p>
Impact on Elderly and Disabled Households	<p><u>For all rental assistance programs:</u> Moving to a rent structure of 30% of gross income for senior and disabled households excludes all deductions, including deductions for high medical expenses and for a being a senior. Currently-assisted seniors and disabled households would see phased-in rent changes over two triennial recertifications</p>
Impact on new vs. existing assisted households	<p><u>For all Rental Assistance Programs:</u> No “hold harmless” provision for newly-assisted seniors. Owners would need to maintain two sets of rent-setting rules.</p>
Hardship Exemptions	<p>Move hardship exemptions currently in place for public housing and voucher programs to the PBRA program; apply hardship provisions to family rents and elderly, disabled, and other families as defined by the Secretary</p>

In conclusion, HUD's recent proposal to reform rent structures would make a number of controversial changes; the plan would affect new and currently-assisted households in rental assistance households, including the Project-Based Section 8 programs.

NAHMA will continue to keep members up-to-date as the legislative proposal makes its way through Congress. NAHMA has long-standing policy supporting rent streamlining and regulatory reforms in an effort to reduce burden; however, as we did for the FY18 Budget Request, we oppose the President's FY19 Budget, including proposals that utilize rent reform as a justification to cut funding for rental assistance programs. We also have concerns regarding the impacts of the newly-proposed rent reforms on elderly and disabled households.