

NAHMA Analysis



News and Analysis of Breaking Issues in Affordable Housing

National Affordable Housing Management Association
526 King Street, Suite 511- Alexandria, Virginia 22314 - 703-683-8630 - FAX 703-683-8634 -
www.NAHMA.org - E-Mail George.Caruso@NAHMA.org or Chris.Lord@NAHMA.org - all rights reserved

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Determining Adjusted Income in HUD Programs Serving Persons with Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income Final Rule Federal Register January 19, 2001 and January 30, 2001 Effective Date April 20, 2001

For the last couple of years HUD has been considering expanding the allowable deductions for certain types of medical expenses for Disabled Residents. On a parallel track they have also been looking at expanding the earned income disallowance regulations beyond Public Housing.

The base goal in both cases is to allow folks with Disabilities to get employed and enjoy some of the benefits without seeing all of the income go into additional rent.

Whenever a policy maker looks at expanding allowances and disregards in this area, particularly on the privately owned side, you run into a thicket since the sheer number of programs, and varying program regulations are difficult to navigate. In the last days of the Clinton Administration, HUD launched into the publication pipeline a final rule changing both income disregards, and increasing deductions for residents with disabilities. The Bush Administration has slipped the implementation date on this rule two months to allow them time to review it, and decide if they wish to keep it.

George's Spin - This final rule is one of the most convoluted and opaque rules to come out of the policy shop in a long time. We are seeking additional clarification, and if possible a translation of the provisions into English so the folks on the front lines doing 50059's will have a clear idea what is allowed and what is not.

Here in short form is what we think this rule does:

1. Enables disabled residents in four HUD programs to exclude from their annual income any increase due to going to work. The programs are 1) HOME Investment Partnerships Program (24 CFR part 92); 2) Housing Opportunities for Persons with AIDS (24 CFR part 574); 3) Supportive Housing Program (24 CFR part 583); and the 4) Housing Choice Voucher

Program (24 CFR part 982). While there was a push to include all of the Section 8, 202, 811, Mod Rehab, and Shelter Plus programs the current statutes prevent HUD from expanding the income disregard beyond Public Housing and the four additional programs noted above.

Additional Spin - this will make recertification policies really strange in firms that have some properties assisted by programs with the disregard, and others without it. The biggest training issues will lie with PHA's that have multiple programs. If you are among those affected your site computer software will need to be capable of handling this income exclusion, you will want to check with your vendor to get this in place prior to April 20 which is a pretty short time frame. We are already having problems in Management Reviews by Contract Administrator's staff who are trained in Public Housing rules, and are less than clear in ours, this new set of partially applicable rules will make that problem worse.

2. Adds for Disabled Residents in all Section 8, Public Housing and other HUD assisted housing an expanded deduction in Section 5.611 - Adjusted income. Adjusted income means annual income (as determined by the responsible entity, defined in Sec. 5.100 and Sec. 5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:
 - (a) Mandatory deductions. In determining adjusted income, the responsible entity must deduct the following amounts from annual income:
 - (1) \$480 for each dependent;
 - (2) \$400 for any elderly family or disabled family;
 - (3) The sum of the following, to the extent the sum exceeds three percent of annual income: (i) Unreimbursed medical expenses of any elderly family or disabled family; and (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
 - (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education. (b) Additional deductions.

Additional Spin - The new part here is the section in (3) ii, the deduction can only be as large as the additional income generated. It is important to note that this appears to be limited to persons with a disability only.

We will pass along clarifications of this as we get them, and will advise you if the new administration pulls this rule during their "look see" period. The full text of the rules is posted in the Members Section of the NAHMA Web Site. **A Note about E-Mail and the NAHMA Web Site. We are in the process of moving both E-Mail and the Web Site to new servers, which requires adjustments in "pointers" that route things on the Web. From time to time over the next three weeks while all this work takes place you may not be able to reply to E-mail or see the Web Site in some cases. Please bear with us while we upgrade the system for you. We anticipate having everything done February 20.**