

CHAPTER 2 Policy and Procedure Development

Section 1 Introduction

- The objectives of this chapter are to:
 - Distinguish between mandatory and discretionary policy requirements
 - Analyze language in regulations to determine what decisions have to be made and included in written policies or procedures to ensure consistency in rent determinations
- The quality control study published by HUD’s Office of Policy Development and Research in 2001—“Quality Control for Rental Assistance Subsidies Determinations”—reached the following conclusions:
 - Weaknesses in PHA policies and procedures contribute to rent errors.
 - Areas of PHA discretion have both positive and negative effects:
 - On the positive side, areas of discretion enable PHAs to adapt their programs to local conditions.
 - On the negative side, discretionary areas create the potential for confusion and inconsistency.

Section 1: Introduction

Notes

- The challenges for PHAs are to:
 - Understand what is mandatory and what is discretionary
 - Develop **compliant** policies for mandatory items
 - Develop **reasonable** policies in discretionary areas
 - Develop procedures that translate mandatory and discretionary policies into action
 - Communicate (and train) policies and procedures to ensure consistency
 - Monitor policies and procedures to ensure compliance by staff
- To help your PHA meet these challenges, this chapter will:
 - Focus on the distinction between mandatory and discretionary policies
 - Show you how a lack of PHA policies and procedures may be contributing to errors
 - Help you think through the manner in which your agency handles discretionary items
 - Suggest ways for improving your policies and procedures

Section 2 The Need for Policies and Procedures

WHY POLICIES AND PROCEDURES ARE NEEDED

- HUD requires written policies.
 - A PHA that administers the Housing Choice Voucher (HCV) program must adopt a written administrative plan.
 - The requirements for this plan are spelled out at 24 CFR 982.54.
- In addition, written policies:
 - Provide daily guidance to PHA staff in the performance of routine activities
 - Make decisions more transparent to staff and the public
 - Are more defensible than unwritten policies when challenges arise
 - Ensure that all PHA staff members do things the same way, thus promoting consistency and fairness while also minimizing the potential for lawsuits
 - Provide a foundation for sound management and supervision
 - Approved policies and procedures allow supervisors to establish objective performance standards for their staffs.
 - Provide a basis for auditor justification—e.g., under the Section 8 Management Assessment Program (SEMAP), a Rental Integrity Monitoring (RIM) review, or an independent public audit (IPA)

MANDATORY VS. DISCRETIONARY POLICIES AND PROCEDURES

- A **mandatory** policy or procedure is one that it is required by a current law, regulation, notice, or handbook.
- **Discretionary** policies or procedures are decisions made by PHAs within legal and regulatory limits for the purpose of:
 - Clarifying regulations, as needed, without changing their intent
 - Providing guidance and direction in areas on which HUD is silent (such as fraud detection)
 - Following a HUD requirement with one or more discretionary components (e.g., establishing subsidy standards)

Effect on RIM Reviews

- Many errors result from lack of guidance to staff.
- During a RIM review, if there is no HUD “rule” that must be followed, the reviewer will look to see:
 - What policy/procedure your PHA has established
 - Whether that policy/procedure is being followed
- If your PHA has no policy/procedure and practice is inconsistent, the reviewer will note this as a finding.
- Inconsistency in operation can often be resolved by providing consistent written policies, procedures, staff training, and quality control follow-up.

Mandatory and Optional References

- The following references are binding—i.e., they must be followed:
 - Statutes
 - HUD regulations
 - The governing regulations for the HCV program are located principally in 24 CFR Parts 5, 982, and 985.
 - Current PIH notices
 - Most PIH notices have an expiration date.
 - PIH notices may be extended or reinstated.
 - HUD handbooks
 - Forms required by HUD regulations (such as Form HUD-50058)
 - Opinions or rulings by HUD's Office of General Counsel (OGC)
- The following HUD references are nonbinding—i.e., PHAs are urged, but not required, to follow them unless the guidance they provide is based on mandatory references:
 - Guidebooks
 - Notices that have expired
 - Handbooks that have expired
 - Recommendations from individual HUD staff

HUD Guidance as a “Safe Harbor” for PHAs

- For issues not covered by mandatory references, HUD recommends that PHAs develop policies and procedures based on HUD guidance.
- Using HUD guidance creates a “safe harbor” for PHAs because HUD has determined that the guidance is consistent with applicable requirements.

Section 2: The Need for Policies and Procedures

Notes

- Since HUD guidance is optional, PHAs may use alternative approaches to developing policies and procedures in discretionary areas. However, they must then make their own determination of consistency with applicable requirements. They are not protected by the “safe harbor” concept.

HUD and PHA Roles

- The role of HUD field office staff is to:
 - Inform PHAs about what is mandatory and provide them with appropriate references
 - Inform PHAs about what is optional or discretionary
 - Ensure that policies and procedures have been adopted and implemented
- The role of the PHA is to:
 - Develop policies and procedures to clarify requirements
 - Ensure consistency by all staff in the application of HUD regulations and PHA policies and procedures

Section 3 **Developing Policies and Procedures**

POLICIES VS. PROCEDURES

- Policies:
 - Expand upon and explain rules
 - State **what** will be done—whether it is a HUD requirement or a matter of PHA discretion
 - Include the performance standards necessary to meet requirements
 - Must be incorporated into a PHA's administrative plan
 - Must be formally (i.e., officially) approved by a PHA's board
 - Must be readily available to the public as well as to PHA staff

- Procedures:
 - Explain **how** HUD regulations or PHA policies will be carried out (the steps or tasks required for implementation)
 - Include the instructions needed to evaluate whether performance standards have been met
 - May be recorded where and how a PHA chooses
 - Do not require board approval
 - Are easier to change than policies

- Both policies and procedures must:
 - Comply with current HUD rules and other federal, state, and local requirements
 - Be reasonable and practical, balancing simplicity and best practices
 - Provide guidance and tools for implementation as well as rules
 - Be in a format that is easy to update and accessible by staff
- Policies without procedures result in inconsistent practices.

STEP 1: IDENTIFYING DECISION POINTS

- The first step in the process of policy and procedure development is identifying PHA decision points.
- Decision points are the questions your PHA must answer in order to administer your program in compliance with HUD regulations.

Example: Child Care Expenses

- Consider the deduction for child care expenses in determining adjusted income.

Section 3: Developing Policies and Procedures

Notes

- Two HUD regulations address this deduction:
 - Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education [must be deducted from annual income]. (24 CFR 5.611(a)(4))
 - *Child care expenses.* Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is **necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education** and only to the extent **such amounts are not reimbursed**. The amount deducted shall reflect **reasonable charges** for child care. In the case of child care necessary to permit employment, the amount deducted **shall not exceed the amount of employment income** that is included in annual income. (24 CFR 5.603(b))
- Moreover, in its verifications guidance, HUD has interpreted the child care regulations as follows:
 - A PHA may **not** disallow a deduction for child care expenses because there is an unemployed adult family member who may be available to provide the care.
 - A PHA may **not** decide who will provide child care for an applicant's or participant's child(ren).
 - A PHA may **not** decide the type of child care available for a participant's child(ren).
- To develop policies and procedures for implementing the child care expense deduction, your PHA must first identify the decision points in the HUD regulations and guidance.

Decision Points

- **Point 1:** “Necessary to...enable a family member to [engage in a qualifying activity]”
 - In determining whether child care expenses are necessary, your PHA should compare the hours during which child care is provided to the hours family members are working or engaging in one of the other qualifying activities.
- **Point 2:** “Enable a family member to actively seek employment”
 - What does *actively* mean?
 - What kinds of activities constitute “seeking”?
 - How often do those activities have to occur—i.e., what is your PHA’s performance standard on this point?
 - How will you document “actively seeking”?
 - Can more than one family member be “actively seeking” employment?
- **Point 3:** “Enable a family member to...be gainfully employed”
 - When more than one family member works, your PHA must determine which family member or members are being enabled to work by the child care provided.
 - Notice that the definition of *child care expenses* limits the amount that may be allowed for these expenses to the amount of employment income included in annual income.
 - PHA policy may adopt the assumption that the child care expenses enable the lowest paid family member to work unless this is obviously not the case.

- **Point 4:** “Enable a family member to...further his or her education”
 - This point requires your PHA to verify that the family member who is enabled to further his or her education is actually enrolled in and attending an educational institution or program.
 - Again, the days and times during which the child care is provided must correspond to the days and hours of school attendance.
- **Point 5:** “Such amounts are not reimbursed”
 - This means that no one else may be paying for the child care expenses either directly or indirectly.
 - Your PHA will need to require the family to sign a certification of nonreimbursement (which may be included on your application/reexamination form).
 - You will also need to obtain certification from the child care provider on a third-party verification form.
- **Point 6:** “Reasonable charges”
 - What is your PHA’s standard for “reasonable”?
 - *The Housing Choice Voucher Program Guidebook* says that PHAs must determine whether child care costs are “reasonable.”
 - *Reasonable* means reasonable for the care being provided (i.e., in-home care versus care at a day care center or elsewhere).
 - Remember: Families may choose the type of care to be provided.
 - Your PHA’s policy should define reasonableness as it applies to child care expenses.
 - For example, the policy could include the requirement to conduct some type of market survey to determine the rate of child care under comparable conditions within the local market.

STEP 2: TRANSLATING REQUIREMENTS INTO POLICIES AND PROCEDURES

- The second step in the process of policy and procedure development is translating requirements into PHA policies and procedures.
- Policies state:
 - The requirement to be evaluated
 - “Annual income must be below the income limits...”
 - “Types of income to be counted are...”
 - “Types of income to be excluded are...”
 - “Allowable expenses include...”
 - The performance standard for the requirement
 - “PHA will consider income to be ‘regular’ if...”
 - “Acceptable documents for purposes of legal identity include...”
- Procedures focus on the required steps to perform the function.
 - “Complete the interview checklist...”
 - “Enter data for Work Number check...”
 - “Complete SWICA inquiry form...”
 - “Review reported income against previous application...”
 - “Complete and photocopy third-party verification form...”
- For an example of translating requirements into policies and procedures, see the following page.

Example: Translating Requirements into Policies and Procedures

*Requirement
to be evaluated*

- **Requirement:** Annual income includes alimony and child support payments and regular contributions received from organizations or persons not residing in the dwelling. (24 CFR 5.609(b)(7))

- **Policy:** Annual income includes alimony and child support and regular contributions received by any family member whether or not they have been awarded by the court. Court-awarded contributions will be counted unless the family certifies that payments are not being made and has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment.

*Performance
Standards*

- **Court-awarded payments or contributions** such as child support, alimony, or maintenance will be counted as annual income. Families are required to provide the PHA a copy of such court orders.

Verification standards for court-awarded and non-court-awarded payments and contributions. (All verification forms must be mailed by the housing specialist no later than the end of the business day following the date of the certification interview.)

Procedures

- Court-awarded payments or contributions paid through the welfare department or any other enforcement agency will be verified directly with the agency responsible for collecting payments. Staff will require family to provide a copy of court order. Court-awarded payment verification form will be mailed independently by staff.
- The PHA may accept printouts provided directly from the court or agency responsible for enforcing support payments or other evidence indicating the frequency and amount of support payments actually received. If there is a discrepancy between the information provided by the family and the printout, the PHA will initiate direct contact with the agency providing the printout.
- Court-awarded payments or contributions paid directly from the payer to a family member will be verified independently with the payer through third-party written verification. If such verification is not available, the PHA will document the file with the attempt to verify and accept a notarized self-certification of the contributions received.
- **Non-court-awarded contributions** reported by the family will be verified independently through written third-party verification from the contributor. Staff will obtain mailing address of contributor and mail verification form. If the contributor is unwilling or unable to provide third-party verification, the PHA will require a notarized self-certification from the family member.

Notes

LEARNING ACTIVITY 2-1 MINIMUM RENT POLICIES AND PROCEDURES

Objective

- To analyze policies to determine where procedures are needed to inform staff about how to do a task

Task

- To implement the minimum rent policy on the following page, ABC PHA's staff will need written instructions in the form of procedures. Review the section on **criteria for hardship exemptions** and list two or three questions that need to be answered through procedures. Remember, the purpose of procedures is to ensure consistency in implementation. (The regulations governing minimum rent are reprinted below for your reference, as needed.)

5.630 Minimum rent.

(a) *Minimum rent.* (1) The PHA must charge a family no less than a minimum monthly rent established by the responsible entity, except as described in paragraph (b) of this section.

(2) For the public housing program and the section 8 moderate rehabilitation, and certificate or voucher programs, the PHA may establish a minimum rent of up to \$50.

(3) For other section 8 programs, the minimum rent is \$25.

(b) *Financial hardship exemption from minimum rent.* (1) When is family exempt from minimum rent? The responsible entity must grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship, as described in the responsible entity's written policies. Financial hardship includes these situations:

(i) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;

(ii) When the family would be evicted because it is unable to pay the minimum rent;

(iii) When the income of the family has decreased because of changed circumstances, including loss of employment;

(iv) When a death has occurred in the family; and

(v) Other circumstances determined by the responsible entity or HUD.

(2) What happens if family requests a hardship exemption? (i) [omitted]

(ii) *All section 8 programs.*

(A) If a family requests a financial hardship exemption, the responsible entity must suspend the minimum rent

requirement beginning the month following the family's request for a hardship exemption until the responsible entity determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term.

(B) The responsible entity must promptly determine whether a qualifying hardship exists and whether it is temporary or long term.

(C) If the responsible entity determines that a qualifying financial hardship is temporary, the PHA must not impose the minimum rent during the 90-day period beginning the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, the responsible entity must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by the responsible entity, for the amount of back rent owed by the family.

(iii) *All programs.*

(A) If the responsible entity determines there is no qualifying financial hardship exemption, the responsible entity must reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by the responsible entity.

(B) If the responsible entity determines a qualifying financial hardship is long term, the responsible entity must exempt the family from the minimum rent requirements so long as such hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

(C) The financial hardship exemption only applies to payment of the minimum rent (as determined pursuant to 5.628(a)(4) and 5.630), and not to the other elements used to calculate the total tenant payment (as determined pursuant to 5.628(a)(1), (a)(2) and (a)(3)).

ABC PHA MINIMUM RENT POLICY

Minimum Rent

“Minimum rent” is \$25. Minimum rent refers to the minimum total tenant payment (TTP) and includes the combined amount a family pays toward rent and/or utilities when it is applied.

Hardship Requests for an Exemption from Minimum Rent

The PHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The PHA will review all relevant circumstances brought to the PHA’s attention regarding financial hardship as it applies to the minimum rent. The following section states the PHA’s policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship can be claimed. (24 CFR 5.630)

Criteria for Hardship Exemption

In order for a family to qualify for a hardship exemption, the family’s circumstances must fall under one of the following HUD hardship criteria:

- The family has lost eligibility or is awaiting an eligibility determination for federal, state, or local assistance, including a family with a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
- The family would be evicted as a result of the imposition of the minimum rent requirement.
- The income of the family has decreased because of changed circumstances, including loss of employment, death in the family, or other circumstances as determined by the PHA or HUD.

Suspension of Minimum Rent

The PHA will grant the minimum rent suspension to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the PHA determines whether the hardship meets the criteria for exemptions and whether it is temporary or long-term.

“Temporary” means verified to last less than 90 days. “Permanent” means lasting 90 or more days.

“Suspension” means that the PHA must not use the minimum rent calculation until the PHA has made this decision.

During the minimum rent suspension period, the family will not be required to pay the minimum rent, and the housing assistance payment (HAP) will be increased accordingly.

If the PHA determines that there is no qualifying hardship, the PHA will reinstate the minimum rent, including payment for minimum rent from the time of suspension. The PHA will determine whether a repayment agreement is feasible in accordance with its repayment policy.

Temporary Hardship Suspension

If the PHA determines that the hardship is temporary, the minimum rent will not be imposed for a period of 90 days from the date of the family’s request unless the family reports that the temporary hardship no longer exists. At the end of the temporary suspension period, the minimum rent will be imposed retroactively to the time of suspension. The PHA will offer the family a reasonable repayment agreement.

Long-Term Duration Hardship Exemption (24 CFR 5.630(b)(2)(iii)(B))

If the PHA determines that there is a qualifying long-term financial hardship, the PHA must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family’s request for exemption.

Developing Procedures

- There is no HUD-required form or format for procedures, but procedures must be consistent with HUD requirements.
- PHAs can develop procedures based upon the specific work flow at their own agencies.
- A good procedure will include the following elements:
 - Explanation of (or citation for) policy
 - Task or tasks that need to be done
 - Staff who is/are responsible
 - Time frames that must be observed
 - Forms and/or systems that will be used
 - Approvals that are necessary
 - Instructions for decisions and calculations that must be made by staff
- For a sample procedure addressing the minimum rent hardship issue, see the following page.
 - **Note:** The sample is an excerpt only, not the complete procedure.

EXCERPT FROM ABC PHA MINIMUM RENT PROCEDURE

Note: This is an excerpt only. Italicized notes comment on the policy or explain what additional material would be included. Attachments refer to ABC PHA's policy, not to this book.

POLICY:

Minimum Rent. Families receiving HCV assistance generally must pay a minimum total tenant payment (TTP) of \$25.

Hardship Exemptions. Currently participating families may request a hardship exemption from this requirement in the case of the following hardship circumstances:

- (1) The family would be evicted as a result of inability to pay the minimum rent.
- (2) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program... *(Note: Policy continues with regulatory language.)*
- (3) Family income decreases because of unemployment or a family member death...
- (4) Other hardship circumstances may be approved by the executive director. *(Note: Rather than specifying other hardships, the policy leaves this decision to the executive director on a case-by-case basis.)*

Short-Term Exemptions. If the agency determines the hardship is short-term, the minimum payment will be suspended beginning the first of the month following the family's request. During the suspension period, the minimum rent obligation continues to accrue. Once the short-term period ends... *(Note: Policy continues here to talk about repayment requirements and agreements.)*

Long-Term Exemption...

(Note: Policy would continue here.)

PROCESSING STEPS:

1. **Informing program participants.** Information about the availability of minimum rent exemptions and the process for obtaining an exemption will be provided in writing (see Attachment 1) and explained:
 - A. At the time of the briefing session
 - B. Whenever a family requests an interim reexamination based upon reasons that could qualify the family for this exemption
 - C. At annual reexaminations if the family indicates a hardship

2. Processing Family Requests

- A. Families must request the exemption in writing.
- B. Upon receipt the housing specialist (HS) date-stamps the request and enters the family name, date of request, and reason on the computerized Special Request Tracking Log (Tracking Log) found on the agency's F drive. (See Attachment 2.)
- C. Within 2 working days of receipt of the request, the HS:
 - (1) Sends a letter to the family and to the owner, notifying them of the suspension of minimum rent (See Attachment 3.)
 - (2) Sends a notification of minimum rent suspension to the finance department (See Attachment 4.)

3. Determining Eligibility

- A. **Verification.** The HS must verify the circumstances explained in the family's request in accordance with the agency's verification policy. (See Attachment 5 for verification form.)
- B. **Review of Justification.** In addition to verifying the circumstances described in the family's request, the HS must determine whether the circumstances actually support an exemption. (For example, the death of a family member who contributed no income to the family generally would not support an exemption.)
- C. **Recommendation to Supervisor.** The HS:
 - (1) Completes a Recommendation for Approval/Denial of Minimum Rent Exemption (See Attachment 6.)
 - (2) Forwards the recommendation to the Section 8 director
 - (3) Logs the status on the Tracking Log
- D. **Approval/Recommendation.** The Section 8 director reviews the request to determine if the hardship justification has been verified and meets the agency's criteria for approval...

Note: Listed below are additional sections that would be included in the procedure.

4. Criteria and Processing for Long-Term Exemptions

5. Criteria and Processing for Case-by-Case Exemptions

6. Notifications

7. Tracking During the Exemption Period

8. Extension/Termination of the Exemption

9. Repayment Agreements...(See Attachment 10 for sample agreement.)

10. File documentation

Note: Attachments would follow the last section.

Notes

Section 4 Guidelines for Implementing Policies and Procedures

- Review HUD requirements (mandates):
 - Regulations
 - Current notices
- Remember that guidebooks are not mandatory but are helpful references that can be mined for acceptable policy language.
- Establish local policies and procedures.
 - Use the charts at the end of this chapter to guide you in making some of your policy/procedure decisions. These charts are examples only; they are not intended to be all-inclusive.
- Train staff.
- Monitor staff for consistency.
- When questions arise, make decisions and add them to already established policies and procedures.

Annual Income and Assets—HCV

| Regulatory Reference | Regulation | Guidebook Reference | Policy/Procedure Decisions |
|----------------------|--|--|--|
| Income | | | |
| 24 CFR 5.609(a)(1) | Annual income means all amounts, monetary or not, which go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or | <i>HCV Program GB</i> , §5.3, pp. 5-13, 5-18, 5-19, 5-22 | <ul style="list-style-type: none"> • How is “temporarily absent” defined? • What does “monetary or not” mean? |
| 24 CFR 5.609(a)(2) | Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and | <i>HCV Program GB</i> , §5.3, p. 5-17 | <ul style="list-style-type: none"> • What is the methodology for calculating the income when it cannot be anticipated for a full 12 months? • What is the calculation for income when it is to be received in various intervals (such as semimonthly)? |
| 24 CFR 5.609(a)(3) | Which are not specifically excluded under paragraph (c) of this section. | <i>HCV Program GB</i> , §5.3, pp. 5-18–5-24 | |
| 24 CFR 5.609(a)(4) | Annual income also means amounts derived (during the 12-month period) from assets to which any member has access. | <i>HCV Program GB</i> , §5.3, p. 5-18; §5.4, pp. 5-18–5-26 | <ul style="list-style-type: none"> • This has implications for trusts, joint accounts, and other types of assets. |
| 24 CFR 5.609(b) | Annual income includes, but is not limited to: | <i>HCV Program GB</i> , §5.3, pp. 5-13–5-24; §5.4, pp. 5-24–5-28 | |
| 24 CFR 5.609(b)(1) | The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services; | <i>HCV Program GB</i> , §5.3, pp. 5-13, 5-17 | <ul style="list-style-type: none"> • What is determined as sporadic employment? • How do you calculate fluctuating hours and/or rates? • How is seasonal income calculated? |

| Regulatory Reference | Regulation | Guidebook Reference | Policy/Procedure Decisions |
|----------------------|--|---|--|
| 24 CFR 5.609(b)(2) | The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in IRS regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family; | <i>HCV Program GB</i> , §5.3, p. 5-19 | <ul style="list-style-type: none"> • What is business expansion? • How would a PHA know whether a family has used straight-line or accelerated depreciation? • What proof would a PHA need to determine whether a withdrawal is reimbursement of cash or assets invested in the operation of a business by a family? • What if a business is co-owned by someone outside the family? How is income determined in that case? |
| 24 CFR 5.609(b)(3) | Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD; | <i>HCV Program GB</i> , §5.4, pp. 5-24–5-28 | <ul style="list-style-type: none"> • How should a family be required to document that the cash it is withdrawing is reimbursement of amounts invested? • What are the procedures for how income from a trust is calculated? • When assets are jointly owned, how is the income from the assets counted? How do I determine who has ownership and whether anything should be prorated? • What is the procedure for calculating principal from a trust when it is received in total, in partial payments, or in regular monthly payments? • Is there a difference in the income received from a fixed annuity as compared to a variable annuity? • Is there a difference in whether the holder of an annuity has a right to withdraw the balance? • How are annuity expenses anticipated? • How is the annual income on an annuity figured? • What balance in a checking account should be used to determine the asset value? What about a savings account? |

| Regulatory Reference | Regulation | Guidebook Reference | Policy/Procedure Decisions |
|----------------------|--|--|--|
| 24 CFR 5.609(b)(4) | The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section); | <i>HCV Program GB</i> , §5.3, pp. 5-23–5-24; §5.4, p. 5-26 | <ul style="list-style-type: none"> • Does the PHA have a procedure in place for adjustments for prior overpayment of benefits? • What methodology should be used to calculate lump-sum payments received for the delayed start of a periodic payment? |
| 24 CFR 5.609(b)(5) | Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation and severance pay (except as provided in paragraph (c)(3) of this section); | <i>HCV Program GB</i> , §5.3, pp. 5-23–5-24 | <ul style="list-style-type: none"> • How is unemployment calculated if an individual will not receive the payment for the full year? • What if part of the payments are made in a lump sum and the balance in periodic payments? How is this calculated? |
| 24 CFR 5.609(b)(6) | Welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of: (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus (ii) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family’s welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage; | <i>HCV Program GB</i> , §5.3, pp. 5-20–5-22 | <ul style="list-style-type: none"> • Are procedures in place so that the annualization of imputed welfare income calculations is consistent? |

| Regulatory Reference | Regulation | Guidebook Reference | Policy/Procedure Decisions |
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| 24 CFR 5.609(b)(7) | Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; | <i>HCV Program GB</i> , §5.3, pp. 5-18–5-19, 5-23 | <ul style="list-style-type: none"> • What is counted if the family claims it is not actually receiving any or all of the child support or alimony payments awarded by the court? • What is counted if there was never an award by the court? • What is defined as a regular contribution or gift? How is the value of regular nonmonetary contributions determined? |
| 24 CFR 5.609(b)(8) | All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section). | | |
| ASSETS | | | |
| 24 CFR 5.603(b)(1) (definition of <i>net family assets</i> , ¶1) | Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. | <i>HCV Program GB</i> , §5.4, pp. 5-24–5-28 | <ul style="list-style-type: none"> • What “reasonable costs” would be deducted to obtain the net cash value of an asset? • What is the value of a checking account? The average balance over the last 6 months? • What is the value of a savings account? The current balance? • If an asset is owned jointly in an “and” account, what value of the asset is counted? • If an asset is owned jointly in an “or” account, what value of the asset is counted? • What do you include in the category “necessary items of personal property”? |
| 24 CFR 5.603(b)(2) (definition of <i>net family assets</i> , ¶2) | In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under 5.609. | <i>HCV Program GB</i> , §5.4, pp. 5-24–5-28 | <ul style="list-style-type: none"> • What if the distribution of the trust fund is over a period of time? How is it calculated? |

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| <p>24 CFR 5.603(b)(3) (definition of <i>net family assets</i>, ¶3)</p> | <p>In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.</p> | <p><i>HCV Program GB</i>, §5.4, pp. 5-27–5-28</p> | <ul style="list-style-type: none"> • What if a family sets up a nonrevocable trust for the benefit of another person? Is this an asset disposed of for less than fair market value? What if the family who set up the trust still receives income from it? • Can a threshold be set so that only assets exceeding the threshold amount are counted as assets disposed of for less than fair market value? |
| <p>24 CFR 5.609(b)(4) (definition of <i>net family assets</i>, ¶4)</p> | <p>For purposes of determining annual income under 5.609, the term ‘net family assets’ does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.</p> | | |

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| 24 CFR 5.609(c)(3) | Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section) [are counted as assets, not income]. | <i>HCV Program GB</i> , §5.3, pp. 5-23, 5-25 | <ul style="list-style-type: none"> • What verification is required for lump-sum additions to assets? • What if the family has purchased personal property with the lump sum? Does it matter how long the family keeps the lump sum before spending it? • What if the family reports the lump sum but then states that it intends to use the money to purchase a car before its next annual recertification? Is the amount of the lump sum then prorated? • Must the family put the lump sum into some other asset vehicle, such as a savings account, before the money can be counted as an asset? If the family just takes the cash home and keeps it there, is it still an asset? If so, how much cash must the lump sum be before it is counted as an asset? • Will there be a minimum amount for a lump sum (e.g., \$100)? |

Income Exclusions—HCV

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| 24 CFR 5.609(c) | Annual income does not include the following: | <i>HCV Program GB</i> , Exhibit 5-2, pp. 5-15–5-16 | |
| 24 CFR 5.609(c)(1) | Income from employment of children (including foster children) under the age of 18 years; | | |
| 24 CFR 5.609(c)(2) | Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone); | | <ul style="list-style-type: none"> • How is “foster child” or “foster adult” defined? What about guardianship? |
| 24 CFR 5.609(c)(3) | Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker’s compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section); | | <ul style="list-style-type: none"> • Does the PHA have policies to determine when lump-sum payments are included in assets? (See the last row of the annual income and assets chart above.) |
| 24 CFR 5.609(c)(4) | Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member; | | <ul style="list-style-type: none"> • Does the PHA have policies or procedures to determine the difference between a regular contribution or gift received from a person outside the household (which would be counted as income) as opposed to a payment specifically for medical expenses (which would be excluded)? • What procedures will the PHA use to verify what portion of a payment is specifically for expenses? |
| 24 CFR 5.609(c)(5) | Income of a live-in aide, as defined in 5.403; | | <ul style="list-style-type: none"> • Does the PHA have a policy to determine whether an individual meets the criteria in the HUD definition of <i>live-in aide</i>? |
| 24 CFR 5.609(c)(6) | The full amount of student financial assistance paid directly to the student or to the educational institution; | | <ul style="list-style-type: none"> • Does the PHA have a policy to exclude this income even if the student receives the financial aid but then never attends school? |
| 24 CFR 5.609(c)(7) | The special pay to a family member serving in the Armed Forces who is exposed to hostile fire; | | |

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| 24 CFR 5.609(c)(8)(i) | Amounts received under training programs funded by HUD; | | <ul style="list-style-type: none"> • PHAs should identify what qualifies as a HUD-funded training program. For example, does the training program identify funding source, training program goals and objectives, and time period? Does the training program have to be funded entirely with HUD funding? |
| 24 CFR 5.609(c)(8)(ii) | Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); | | |
| 24 CFR 5.609(c)(8)(iii) | Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program; | | <ul style="list-style-type: none"> • How do you determine if the out-of-pocket expense was made “solely” to allow participation in a specific program? |
| 24 CFR 5.609(c)(8)(iv) | Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA’s governing board. No resident may receive more than one such stipend during the same period of time; | | <ul style="list-style-type: none"> • If the resident receives two separate stipends for two separate stipend activities in one month totaling more than \$200 (but each is less than \$200), is one included as income? If so, how do you determine which one is to be counted? What if both total less than \$200 per month? Do you still count only one? If so, which one? • Are policies clear that more than one family member may receive this exclusion at the same time? • What types of activities will be included? What is meant by “enhances the quality of life”? |

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| 24 CFR 5.609(c)(8)(v) | Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program; | | <ul style="list-style-type: none"> • What are the procedures for determining whether a program meets the criteria of a “qualifying” state or local employment training program? • What goals and objectives of employment training programs qualify as “clearly defined”? Are time frames a requirement? • Are there procedures to determine whether training income also qualifies a disabled person for the earned income disallowance? Do you have procedures in place to see that a disabled individual receives both benefits if applicable? • Are procedures in place to calculate the incremental earnings to be excluded? Do those procedures ensure that the earnings and benefits received before participation are taken into consideration in the calculation if they continue to be received during participation? • How is the baseline determined for each family member? For example, suppose two family members are listed on a TANF grant and one is receiving the earned income disallowance with the TANF income as his/her baseline. If the second family member qualifies for the training program exclusion, would you use the same TANF income for determining the second member’s incremental increase exclusion? |
| 24 CFR 5.609(c)(9) | Temporary, nonrecurring or sporadic income (including gifts); | | <ul style="list-style-type: none"> • What is the definition of “sporadic income”? If a person works through a temp service, is this excluded income? • What if a person receives a cash “gift” from a relative on a regular basis? |
| 24 CFR 5.609(c)(10) | Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era; | | |

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| 24 CFR 5.609(c)(11) | Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse); | | <ul style="list-style-type: none"> • What does “full-time” mean? Is this left up to the educational institution to define? |
| 24 CFR 5.609(c)(12) | Adoption assistance payments in excess of \$480 per adopted child; | | |
| 24 CFR 5.609(c)(13) | [Reserved] | | |
| 24 CFR 5.609(c)(14) | Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts; | | <ul style="list-style-type: none"> • Does the PHA have a procedure to determine when these amounts are counted as assets? |
| 24 CFR 5.609(c)(15) | Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit; | | |
| 24 CFR 5.609(c)(16) | Amount paid by a State agency to a family member with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or | | |
| 24 CFR 5.609(c)(17) | Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the <i>Federal Register</i> and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. | | <ul style="list-style-type: none"> • Does the PHA have procedures in place to appropriately verify this class of exclusions? |

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| | <p><i>These income sources qualify for the 5.609(c)(17) exclusion but are not listed in the regulations:</i></p> <ul style="list-style-type: none"> • The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) • Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(g), 5058). <ul style="list-style-type: none"> —Examples of programs under this act include but are not limited to: the Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program; National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program, and Special Volunteer Programs; Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE). • Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626 (c)) • Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e) • Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)) | | |

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| | <p><i>Income sources that qualify for the 5.609(c)(17) exclusion but are not listed in the regulations:</i></p> <ul style="list-style-type: none"> • Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552 (b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).) • Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503–04) • The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407–1408) • Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). —Examples of Title IV programs include but are not limited to: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College Work Study, and Byrd Scholarships. | | |

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| | <p><i>Income sources that qualify for the 5.609(c)(17) exclusion but are not listed in the regulations:</i></p> <ul style="list-style-type: none"> • Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056 (f)) <ul style="list-style-type: none"> – Examples of programs under this act include but are not limited to: Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb. • Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established in <i>In Re Agent</i>-product liability litigation, M.D.L. No. 381 (E.D.N.Y.) • Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721) • The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) • Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32 (j)) | | |

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| | <p><i>Income sources that qualify for the 5.609(c)(17) exclusion but are not listed in the regulations:</i></p> <ul style="list-style-type: none"> • Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433) • Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)) • Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805) • Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602) • Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931) | | |

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| EARNED INCOME DISALLOWANCE | | | |
| 24 CFR 5.617(a) | <p><i>Applicable programs.</i> The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).</p> | <p><i>HCV Program GB,</i> Exhibit 5-2, p. 5-16</p> | |
| 24 CFR 5.617(b) | <p><i>Definitions.</i> The following definitions apply for purposes of this section.</p> <p><i>Disallowance.</i> Exclusion from annual income.</p> <p><i>Previously unemployed</i> includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.</p> | | <ul style="list-style-type: none"> • Does the PHA have a definition of “previously unemployed” as it relates to self-employment? |

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| <p>24 CFR 5.617(b)</p> | <p><i>Qualified family.</i> A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section. (1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment; (2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or (3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.</p> | | <ul style="list-style-type: none"> • Does the PHA have procedures in place to verify that a family is receiving TANF-related benefits and services? • Does the PHA have a procedure in place to discontinue the earned income disallowance for a qualifying person with disabilities who is no longer considered disabled at recertification? • Does the PHA have a policy to address reporting changes in income for families receiving the earned income disallowance? |

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| 24 CFR 5.617(c) | Disallowance of increase in annual income— | | |
| 24 CFR 5.617(c)(1) | <i>Initial twelve month exclusion.</i> During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member. | | |
| 24 CFR 5.617(c)(2) | <i>Second twelve month exclusion and phase-in.</i> During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment. | | |

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| 24 CFR 5.617(c)(3) | <i>Maximum four year disallowance.</i> The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section. | | |
| 24 CFR 5.617(d) | <i>Inapplicability to admission.</i> The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable). | | |

Medical Expenses—HCV

| Regulatory Reference | Regulation | Guidebook Reference | Policy/Procedure Decisions |
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| 24 CFR 5.603(b) | <i>Medical expenses.</i> Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. | <i>HCV Program GB</i> , §5.5, pp. 5-31–5-34 | <ul style="list-style-type: none"> • What will be included in medical expenses? For example: <ul style="list-style-type: none"> – Will you use IRS Publication 502 as guidance? – Will you allow all nonprescription medicines or only those prescribed? – What about massage therapy or chiropractic services? • If the same expense can be treated as either a medical or a disability assistance expense, how do you decide? (Counting the expense as medical may give the family a greater deduction.) • Are there procedures for informing families to report a one-time nonrecurring cost as an interim change? |
| 24 CFR 5.611(a)(3) | The sum of the following to the extent the sum exceeds three percent of annual income [is to be deducted from annual income]: (i) Unreimbursed medical expenses of any elderly family or disabled family. (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 of auxiliary apparatus. | | |

Disability Assistance Expenses—HCV

| Regulatory Reference | Regulation | Guidebook Reference | Policy/Procedure Decisions |
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| 24 CFR 5.603(b) | <i>Disability assistance expenses.</i> Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source | <i>HCV Program GB</i> , §5.5, pp. 5-30–5-31 | <ul style="list-style-type: none"> • What is the standard for “reasonable”? • What is included in attendant care and auxiliary apparatus expenses? • Are there procedures for informing families to report a one-time nonrecurring cost as an interim change? • How do you determine who is enabled to work? • If you have determined that more than one person is enabled to work, are there procedures in place to ensure that both incomes are included in the cap? • What happens when an apparatus is not used exclusively by a person with disabilities? Do you prorate the total cost and allow a specific amount to be applied for the deduction? • If both child care and disability expenses are needed to enable a person to work, do you use the same employment income to justify the child care allowance that you use to justify the disability assistance allowance? |
| 24 CFR 5.611(a)(3) | <p>The sum of the following to the extent the sum exceeds three percent of annual income [is to be deducted from annual income]:</p> <p>(i) Unreimbursed reasonable medical expenses of any elderly family or disabled family; and</p> <p>(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 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.</p> | | |

Child Care Expenses—HCV

| Regulatory Reference | Regulation | Guidebook Reference | Policy/Procedure Decisions |
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| 24 CFR 5.611(a)(4) | Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education [must be deducted from annual income]. | HCV Program GB, §5.5, pp. 5-29–5-30 | <ul style="list-style-type: none"> • If more than one person is working, which person’s income is used as the test for the maximum amount? Head? Person with the highest income? Person with the lowest income? All annual income? • What is the standard for “reasonable”? Is there a separate standard for in-home care and care in a day-care center? • Are after-school paid activities included as “reasonable”? • What is the meaning of “actively seek employment”? Does the person have to be in an official job search program, or can s/he just demonstrate independent job search activities? • In estimating annual child care expenses, are changes in expenses due to school year or other factors built into the annual estimation, or is an interim required when changes occur? • How is “furthering education” defined? • What criteria will you use to determine whether child care is necessary to enable the qualifying activities? For example, how are the hours of child care provided compared to the time frame of the qualifying activity? • When child care expenses are incurred by two households with split custody, how should the expenses be split between the two households if the custody and expense are documented for each household and the documentation demonstrates that the total expense claimed by the two households does not exceed the cost for the actual time the child spends in care? • Can more than one person be enabled to engage in one of the qualifying activities for child care purposes? |
| 24 CFR 5.603(b) | <i>Child care expenses.</i> Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. | | |
| <i>Form HUD-50058 Instruction Booklet,</i> p. 36, line 8t | Enter on the 50058 line 8t the household’s total yearly unreimbursed child care expenses. This is the estimated amount a family expects to pay for child care during the annual income period. The amount deducted may not exceed the amount of income that the employment generates. The amount deducted must also not exceed reasonable child care charges. Only include child care expenses for children under the age of 13. Only consider this cost when such care is necessary for a family member to be gainfully employed or to further his or her education. | | |