

Implementation Status of HOTMA Income and Rent Changes

December 8, 2023

Between January 1, 2024, and January 1, 2025, the way that incomes and rents are calculated for the roughly 5 million households that participate in federal rental assistance programs will change, as the Department of Housing and Urban Development (HUD) finalizes implementation of the [Housing Opportunity Through Modernization Act of 2016](#) (HOTMA; P.L. 114-201), which was enacted in 2016. The timing of these changes, and HUD's decision to delay the final compliance deadline, has led to some confusion among assisted housing residents and their landlords.

HOTMA Rulemaking

HOTMA made a range of changes affecting HUD's rental assistance programs, including the public housing, Section 8 Housing Choice Voucher, Section 8 project-based rental assistance, Section 202 Housing for the Elderly, and Section 811 Housing for Persons with Disabilities programs. (These changes also affect [other HUD programs, such as HOME and Housing for Persons With AIDS](#) that refer to rental assistance program regulations revised pursuant to HOTMA.) Some HOTMA changes took effect upon enactment, whereas others required rulemaking, as identified in [initial guidance published by HUD in 2016](#).

Among the last HOTMA provisions to be implemented are those contained in Sections 102, 103, and 104 of the act that pertain to income and affect both tenant eligibility and the amount of rent tenants are required to pay. Following publication of [a notice seeking public input in 2016](#), a [proposed rule in 2019](#), and a [reopened comment period in 2020](#), HUD [published a final rule](#) implementing these provisions in February 2023. The final rule included an effective date of January 1, 2024; however, on September 29, 2023, [HUD announced it was delaying compliance with certain provisions](#) until HUD, PHAs, and owners adopt system updates to reflect HOTMA changes, no later than January 1, 2025.

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Selected Provisions Affecting Income and Rent

Calculation of Income

Section 102 of HOTMA made changes to how total tenant income is calculated as well as the deductions used to establish adjusted income. In HUD rental assistance programs, tenant *income* is used to determine eligibility for assistance and *adjusted income* is used to determine how much rent a tenant should pay (i.e., how much subsidy they should receive). Most common sources of income from all family members are included in the definition of income, though there are some items that are *excluded*. *Deductions* from income are made to arrive at adjusted income. Specifically, among other changes, the law directed that

- imputed returns from assets over \$50,000 (adjusted for inflation) be considered income (previously, imputed returns from all assets were included);
- there be additional exclusions from income, including Department of Veterans Affairs (VA) aid and attendance benefits (other monthly VA disability benefits are still considered income);
- the annual deduction for families headed by a person who is elderly or has disabilities be increased from \$400 to \$525 and be adjusted annually for inflation;
- the deduction for families with dependents be adjusted annually for inflation (previously, it was not subject to inflation adjustments);
- the health and medical expense deduction for elderly and disabled families be reduced from amounts that exceed 3% of annual income to amounts that exceed 10% of annual income (residents may petition for a hardship exemption if their medical expenses exceed 5% of income and [HUD has adopted a phase-in over several years](#)); and
- the earned income disregard for certain public housing residents and Housing Choice Voucher recipients be eliminated (previously, certain earned income was deducted from income).

Under the February final rule, these changes are effective January 1, 2024, but are subject to HUD's implementation extension through January 1, 2025.

Asset Limits

Section 104 of HOTMA set a new limit on the amount and type of assets that an assisted housing resident can hold and remain eligible for assistance. (This change only applies [to the public housing and Section 8 programs](#).) Prior to this change, there was no limit on assets; instead, income from assets was calculated or imputed and included in tenant income. Under the HOTMA changes, persons with assets above \$100,000 (adjusted annually for inflation) or ownership of a habitable home that they have a right to reside in are ineligible. The law gives owners and PHAs some discretion, including the option not to enforce the asset limit for current residents, to establish exceptions, and to delay evictions or terminations for up to six months.

Under the February final rule, these changes are effective January 1, 2024, but are subject to HUD's implementation extension through January 1, 2025. [HUD has stated](#) it will be issuing additional guidance on PHA and owner discretion.

Over-Income Public Housing Tenants

Section 103 of HOTMA set a maximum income limit for public housing residents of 120% of area median income. Residents whose incomes exceed the limit for more than 24 months are considered

over-income and are no longer eligible to live in public housing properties, unless their PHA adopts a policy allowing them to remain and pay market-comparable alternative rents. HUD published a [notice implementing portions of the over-income rule in 2018](#), but ultimately allowed for a delay in the full implementation as a result of the COVID-19 pandemic. The public housing over-income rule was considered effective 30 days following the publication of the February 2023 final rule, and [PHAs were required to come into compliance by June 14, 2023](#).

Effects on Tenants

Because HUD extended the compliance deadline, most of the policy changes outlined above will take effect sometime between January 1, 2024, and January 1, 2025, depending on when system upgrades are implemented by local PHAs and owners, with the exception of the over-income tenant policy in public housing, which is now in effect. However, for any given tenant, changes will generally not take effect until that tenant's next annual or interim recertification, which are tied to lease terms and changes in tenant circumstances, respectively.

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