

HOTMA ACOP REVISIONS - DRAFT

- **EARNED INCOME DISALLOWANCE: PIH NOTICE 2023-27 [24 CFR § 5.611]**

Summary: The Earned Income Disregard (EID) will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

CHAPTER REVISED

- Chapter 6 Table of Contents..... p.5
- Chapter 6 Earned Income Disallowance pp. 8,9,10,11
- Chapter 6 Eligibility & Calculations.....pp. 9,11
- Chapter 6 Disability Assistance Expense Deductions.... pp. 24
- Chapter 6 Childcare Expense Deduction.....p. 27
- Chapter 6 Flat Rents..... p. 36
- Chapter 7 Excluded Sources of Income.....p. 21
- Chapter 9 Interim Reexaminations.....pp. 9,11
- Chapter 13 Over-Income Families..... p. 15
- Glossary..... GL-1

**Example G16: Exclusion of Gross Income
from Self-Employment or Operation of a Business**

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.20 Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

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Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

Note: The EID policies described above are distinct from similar policies in the Jobs Plus program. Families eligible to receive the Jobs Plus program rent incentive (Jobs Plus Earned Income Disregard (JPEID)) pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs may continue to receive JPEID under the terms of the NOFO. The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees by waiving section 3(d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(d)) and § 960.255(b) and (d). For more information about JPEID waivers and alternative requirements, please review the following *Federal Register* notices: [80 FR 13415](#) (March 13, 2015) and [83 FR 13506](#) (March 29, 2018).

PHA/MFH Owner Discretion: None.

G.21 Civil Rights Settlements or Judgments

Regulation: 24 CFR § 5.609(b)(25)

Summary: Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed a practice of excluding from income civil rights settlements and judgments as lump-sum additions to assets, which would include amounts received as a result of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. However, this new exclusion clarifies that even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded. Additionally, this

Table of Contents

Chapter 6 INCOME AND RENT DETERMINATIONS

INTRODUCTION	6-1
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PART I: ANNUAL INCOME

I.A. OVERVIEW	6-1
I.B. HOUSEHOLD COMPOSITION AND INCOME	6-2
I.C. ANTICIPATING ANNUAL INCOME	6-4
I.D. EARNED INCOME	6-6
I.E. EARNED INCOME DISALLOWANCE	6-8
<i>*HUD Eliminated per HOTMA Final Rule (2023) PIH Notice 2023-27 [24 CFR 5.611]</i>	
I.F. BUSINESS INCOME	6-11
I.G. ASSETS	6-13
I.H. PERIODIC PAYMENTS	6-15
I.I. PAYMENTS IN LIEU OF EARNINGS	6-16
I.J. WELFARE ASSISTANCE	6-16
I.K. PERIODIC AND DETERMINABLE ALLOWANCES	6-17
I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME	6-18

PART II: ADJUSTED INCOME

II.A. INTRODUCTION	6-21
II.B. DEPENDENT DEDUCTION	6-22
II.C. ELDERLY OR DISABLED FAMILY DEDUCTION	6-22
II.D. MEDICAL EXPENSES DEDUCTION	6-23
II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION	6-24
II.F. CHILD CARE EXPENSE DEDUCTION	6-26
II.G. PERMISSIVE DEDUCTIONS	6-28

PART III: CALCULATING RENT

III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS	6-29
III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT	6-30
III.C. UTILITY ALLOWANCES	6-33
III.D. PRORATED RENT FOR MIXED FAMILIES	6-34
III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS	6-34

period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

LMHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

In calculating the incremental difference, LMHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with LMHA's interim reporting requirements (see chapter on reexaminations).

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

LMHA Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance. The earned income disallowance is discussed in section 6-I.E below. *Eliminated per HOTMA Final Rule (2023) PIH Notice 2023-27 [24 CFR 5.611]

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255] ELIMINATED PER HOTMA FINAL RULE (2023) PIH Notice 2023-27 [24 CFR 5.611]

The earned income disallowance (EID) ~~encourages~~ encouraged people to enter the work force by not including the full value of increases in earned income for a period of time. [24 CFR 960.255] Eligibility criteria and limitations on the disallowance are summarized below; however, HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will ~~sunset~~ end on January 1, 2026, and LMHA ~~the PHA~~ policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

LMHA Policy

With regard to HUD policy on elimination of the EID, for families who remain eligible during the remaining HUD specified time-period: LMHA defines prior *income*, or pre-qualifying *income*, as the family member's last certified income prior to the qualifying event for the EID.

- During the initial 12-month exclusion period, ending at the latest HUD-HOTMA specified start date of December 31, 2024, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.
- During the second 12-month exclusion period, applying only to families who have enrolled prior to January 1, 2024, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.
- LMHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Although HOTMA eliminated the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual or family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025. (PIH Notice 2023-27)

Note: The EID policies described above are distinct from similar policies in the Jobs Plus program. Families eligible to receive the Jobs Plus program rent incentive (Jobs Plus Earned Income Disregard (JPEID) pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs may continue to receive JPEID under the terms of the NOFO. The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees by waiving section 3(d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(d)) and § 960.255(b) and (d). (PIH 2023-27)

Eligibility: Ended January 1, 2024, per HOTMA (2023) PIH Notice 2023-27

This disallowance applies/applied only to individuals in families already participating in the public housing program (not at initial examination) who were confirmed as eligible prior to January 1, 2024. To qualify, the family must have experienced an increase in annual income that ~~is~~ was the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state

or local minimum wage.

- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who ~~has~~ had received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within ~~the past~~ six months prior to January 1, 2024. If the benefits ~~are~~ were received in the form of monthly cash maintenance, there is no minimum amount. If the benefits or services ~~are~~ were received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must have been at least \$500.

Calculation of the Disallowance: For Families who Qualified Prior to January 1, 2024.

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

LMHA Policy

LMHA defines prior *income*, or prequalifying *income*, as the family member's last certified income prior to the qualifying ~~event for the~~ EID event which must have taken place prior to January 1, 2024 according to the HOTMA Final Rule (2023).

The family member's prior, or prequalifying, income must remain constant throughout the period that he or she is receiving the EID until the disallowance ends on December 31, 2025.

Initial 12-Month Exclusion: For Families who Qualified Prior to January 1, 2024

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. Per PIH Notice 2016-05 the initial exclusion period will be limited to a 12-Calendar month period, regardless of how many months the resident had increased earnings.

LMHA Policy

The initial EID exclusion period ~~will begin~~ began on the first of the month following the date an eligible member of a qualified family ~~is~~ was first employed or first experienced an increase in earnings, whether the family reported the earnings or not.

Second 12-Month Exclusion and Phase-In: For Families who Qualified Prior to January 1, 2024

After the first 12-calendar month period not to exceed the date of December 31, 2025, the PHA must exclude from annual income of the family at least 50 percent of any increase in income attributable to employment or increased earnings.

Lifetime Limitation: For Families who Qualified Prior to January 1, 2024

- From December 31, 2023, the last qualifying date, the EID ~~has~~ will have a two-year (24

month) lifetime maximum, ending on January 1, 2026. The two-year eligibility period begins when the initial exclusion period begins and ends 24 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance. ~~Families who become eligible for EID prior to July 27, 2016 are eligible to receive the EID benefit for 24 months over a 48-month period, as was in effect prior to the effective date of this provision.~~

LMHA Policy: *For Families who Qualified Prior to January 1, 2024*

As required by the requirements of Jobs Plus Ravine Park Village and Birmingham Terrace residents, who are enrolled in the Jobs Plus Earned Income Disallowance (JPEID) program will have the following exemptions from EID:

- JPEID participants are granted 100% income disregard that will remain in place for up to 48 months.
- JPEID eligibility is separate from EID, so even if their EID is used up, they are still qualified for JPEID.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, LMHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-I.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied. **Note: The Earned Income Disallowance (EID) has been eliminated per the HOTMA Final Rule (2023). Any Qualifying families eligibility will end as of January 1, 2026 (see 6-I.E). PIH Notice 2023-27*

LMHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, LMHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When LMHA determines the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members’ incomes [PH Occ GB, p. 124].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: “Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals” [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

LMHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

LMHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied. **Note: The Earned Income Disallowance (EID) has been eliminated per the HOTMA Final Rule (2023). PIH Notice 2023-27*

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000. **Note: The Earned Income Disallowance (EID) has been eliminated per the HOTMA Final Rule (2023). PIH Notice 2023-27*

The LMHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

LMHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, LMHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the tenant family. LMHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

For current residents whose rent would increase because of new flat rent requirement, LMHA must restrict the increases to no more than 35 percent of the current tenant rent per year. This would necessitate a phase-in of the rent increase.

Flat Rent Impact Analysis Calculation

Example: A family was paying a flat rent of \$500 per month. At their annual recertification, the PHA has increased the flat rent for their unit size to \$700. The PHA would conduct a flat rent impact analysis as follows:

$$\$500 \times 1.35 = \$675$$

Since the PHA's increased flat rent of \$700 would result in a rent increase of more than 35 percent, the PHA would offer the family the choice to pay either \$675 per month or an income-based rent. The flat rent increase would need to be phased in.

LMHA Policy

LMHA will conduct a flat rent impact analysis to determine the percentage increase in the family's rent amount. If the increase is greater than 35 percent, it will phase in the rent increase at the maximum amount so that it does not exceed 35 percent in any year. If the increase is 35 percent or less, there will be no phase-in [Notice PIH 2017-23].

Flat Rents and Earned Income Disallowance [A&O FAQs] *Note: The Earned Income Disallowance (EID) has been eliminated per the HOTMA Final Rule (2023). PIH Notice 2023-27

Because the EID ~~was~~ **is** a function of income-based rents, a family paying flat rent ~~cannot~~ **could not** qualify for the EID even if a family member ~~experienced~~ **experienced** an event that would qualify the family for the EID. If the family later ~~chooses~~ **chose** to pay income-based rent, they ~~will only~~ **would have only qualified** for the EID if a new qualifying event occurred.

A family ~~currently paying~~ **who paid** flat rent that previously qualified for the EID while paying income-based rent and ~~is~~ **was** currently within their 48-month period would have ~~had~~ **had** the 12 cumulative months of full (100 percent) and phased-in (50 percent) exclusion continue while paying flat rent as long as the employment that ~~is~~ **was** the subject of the exclusion continued, and the 48-month lifetime limit ~~would have continued~~ **would have continued** uninterrupted. A family ~~who paid~~ **who paid** flat rent could ~~have~~ **have** therefore seen a family member's 48-month lifetime limit expire while the family ~~is~~ **was** paying flat rent.

Flat Rents and Mixed Families [A&O FAQs]

Mixed families electing to pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated. The worksheet is located in Appendix III of the *Form HUD-50058 Instruction Booklet*.

If the flat rent is greater than or equal to the public housing maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit.

If the flat rent is less than the maximum rent, the worksheet will calculate a prorated flat rent. The mixed family will pay the prorated flat rent.

For partially excluded income, the LMHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance). ***Note: The Earned Income Disallowance (EID) has been eliminated per the HOTMA Final Rule (2023). PIH Notice 2023-27**

LMHA Policy

The LMHA will accept the family's self-certification as verification of fully excluded income. The LMHA may request additional documentation, if necessary, to document the income source.

The LMHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.I. ZERO ANNUAL INCOME STATUS

LMHA Policy

The LMHA reserves the right to check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, etc. are not being received by families claiming to have zero annual income.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that LMHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. LMHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The LMHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities

custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), LMHA will approve the addition only if (a) the person will be the spouse or co-head or (b) the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by LMHA. Exceptions will be made and documented on a case-by-case basis. LMHA will not approve the addition of a new family or household member unless the individual meets LMHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If LMHA determines that an individual does not meet LMHA's eligibility criteria or documentation requirements, LMHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

LMHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

LMHA Policy

If a family member ceases to reside in the unit, the family must inform LMHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform LMHA within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because LMHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, LMHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

LMHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses unless they have been determined to be over-income as defined by HUD in PIH notice 2019-11 (HA) and tracking is required to determine rent.

LMHA-initiated Interim Reexaminations

LMHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by LMHA. They are not scheduled because of changes reported by the family.

LMHA Policy: **For Families who Qualified for the EID Prior to January 1, 2024**

LMHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), LMHA will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and during various intervals of the EID reporting requirement period up to 48 months. During such intervals there may be an increase or decrease in rent.

program, the family’s share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

LMHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, LMHA will note the information in the tenant file, send the tenant a notification indicating the information was received, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, LMHA will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

Summary

INCOME CHANGE	LMHA ACTION
Decrease in income for any reason, except for decreases lasting less than 30 days or welfare fraud or sanction for failure to comply with economic self-sufficiency program rules	LMHA will process an interim reduction in rent for any reason except decreases lasting less than 30 days, welfare fraud or sanction for failure to comply with economic self-sufficiency program rules. LMHA will not process a rent reduction for the above exceptions.
If it has been more than 120 days since the last reexamination of any participant signing a Contract of Participation (COP) for the Family Self-Sufficiency Program.	LMHA will conduct an interim reexamination to increase or decrease the rent accordingly.
Increase in earned income from the employment of a current family member eligible for earned income disallowance (EID) Eliminated per HOTMA Final Rule (2023) PIH Notice 2023-27	LMHA will conduct an interim reexamination to increase or decrease the rent accordingly upon the various intervals of EID reporting requirements.
Increase in income because, after passing screening, a person with income (from any source) joins the family.	LMHA will process an interim increase in rent and sign a new lease adding the new person and reflecting the increased rent.
Increase or decrease in income because someone joins or leaves the household.	LMHA will conduct an interim reexamination to increase or decrease the rent accordingly.
Increase in allowable deductions.	LMHA will process an interim reduction in rent affective the following month of the date the deduction was reported.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

***See Chapter 9 pp. 9-3/9-4: On March 13, 2023, HUD issued PIH Notice 2023-03(HA): Supplemental Guidance for Implementation of Section 103; Limitation on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016 (HOTMA) which provides guidance to Public Housing Agencies (PHAs) regarding the new limitations on continued occupancy for over-income families.**

Subject to certain restrictions, HUD authorizes PHAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, LMHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require PHAs to evict over-income residents, but rather gives PHAs the discretion to do so thereby making units available for applicants who are income-eligible. ***Note: The Earned Income Disallowance (EID) has been eliminated per the HOTMA Final Rule (2023). PIH Notice 2023-27**

LMHA Policy

~~The LMHA will not evict or terminate the tenancies of families solely because they are over income.~~

HUD's final rule on HOTMA [24 CFR 960.257] requires that after a family's income has exceeded the over-income limit for two consecutive years or 24 consecutive months (the "grace period") a PHA must either terminate the family's tenancy within six months or charge the family the alternative non-public housing rent (alternative rent).

LMH will require Public Housing families whose incomes exceed the "Over-Income" limits for 24 consecutive months to vacate Public Housing within 60 days of the end of the 24-month over-income period.

LMH will give every Over-Income family a 24-month "grace period" during which, if their income should fall below the Over-Income limit, these provisions do not apply; and

1. If the tenant family's income later exceeds the Over-Income limit, the 24-month grace period starts over; and
2. LMH has determined that the most reasonable course of action in this situation is to notify the affected over-income families when they first become over-income; again 12 months after they first become over-income; and finally, 24 months after they become over-income.

LMH will require these over-income families to vacate public housing within 60 days after the 24-month grace period.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides LMHA may consider exclusion of the culpable household member. Such an alternative can be

GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance: Eliminated per HOTMA Final Rule (2023) PIH Notice 2023-27
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office