



## U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-5000

PRINCIPAL DEPUTY ASSISTANT SECRETARY  
FOR PUBLIC AND INDIAN HOUSING

September 26, 2016

Dear Executive Director,

The **Housing Opportunity Through Modernization Act of 2016 (HOTMA)** (Pub. L. 114-201) was signed by President Obama on July 29, 2016. The law makes a number of changes to the U.S. Housing Act of 1937 that affect the Section 8 Housing Choice Voucher (HCV) and Public Housing programs. Of these, five sections of the Act became effective immediately upon enactment. All of the other sections in HOTMA that impact the HCV and public housing programs require that HUD first issue a notice or regulation for the provision to become effective. Until HUD issues the applicable notices or regulations, your Public Housing Agency (PHA) may not implement those additional sections. This information will also be transmitted in the near future via a Federal Register Notice.

The five immediately effective provisions are:

**1. Section 102(d). Reasonable Accommodation Payment Standards** - amends section 8(o) of the 1937 Act to expressly provide that PHAs may establish, without HUD approval, a payment standard of up to 120 percent of the Fair Market Rent (FMR) as a reasonable accommodation for a person with a disability.

Implementation guidance: The final rule on "Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs," published on March 8, 2016, at 81 FR 12354, previously provided PHAs with the flexibility to establish a payment standard up to 120 percent of the FMR as a reasonable accommodation for a person with a disability, effective April 7, 2016. As a result, no further action is needed to implement this section.

**2. Section 107. Establishment of Fair Market Rent** - changes how HUD publishes FMRs, and revises the procedure to allow PHAs and other interested parties to comment on the FMRs and request HUD to reevaluate the FMRs in a jurisdiction before those rents become effective. Section 107 also amends section 8(o)(1)(B) of the 1937 Act to provide that no PHA in the HCV program is required, as a result of a reduction in the FMR, to reduce the payment standard applied to a family continuing to reside in a unit under a housing assistance payment (HAP) contract at the time the FMR was reduced. The program regulations at 24 CFR 982.505(c)(3) further provide that for families under a HAP contract at the time of the decrease in the payment standard, the new decreased payment standard would be applied to those families' subsidy calculations at their second regular reexamination following the decrease in the payment standard amount. As a result of the change in the law, PHAs may choose to continue to use the existing higher payment standard for family subsidy calculations for as long as families continue to receive voucher assistance in their units; however, if PHAs choose to do so, then they must adopt policies in their Administrative Plans that further explain this provision.

Implementation guidance: This provision was effective upon enactment of HOTMA. HUD's FMRs for Fiscal Year 2017, published in the Federal Register on August 26, 2016, reflecting the new procedures for calculation of FMRs. Effective July 29, 2016, PHAs may choose, but are no longer required, to reduce the payment standard for a family that remains under HAP contract at the family's second annual reexamination if, as the result of a decrease in the FMR, the payment standard would otherwise fall outside the basic range. HUD will issue additional guidance on this change in the future.

**3. Section 110 Family Unification Program (FUP) for Children Aging out of Foster Care** - makes several changes to FUP, including:

- a. Revising the length of the term that a FUP-eligible youth may receive FUP assistance, from 18 months to 36 months. This change applies to FUP youth currently receiving FUP assistance as well as any new participants.
- b. Expanding the eligibility requirements for FUP-eligible youth to those ages 18 to 24 that are homeless or at risk of being homeless, and for those that left foster care at age 16 or older, or those that are within 90 days of leaving foster care. For the purpose of defining at risk of being homeless, PHAs should refer to the definition of at risk of homelessness at 24 CFR 576.2.

Implementation guidance: The changes to the FUP program described above were effective upon enactment of HOTMA. Our office issued a letter on August 29, 2016, to FUP PHA Executive Directors to ensure they are aware that this provision was effective upon enactment.

4. **Section 113. Preference for United States Citizens or Nationals** - only applies to Guam and establishes a preference or priority in receiving financial assistance (e.g., admission to public housing, the HCV program, etc.) for any citizen or national of the United States over aliens covered by section 141 of the Compacts of Free Association between the United States and the Marshall Islands, the Federated States of Micronesia, and Palau.

Implementation guidance: This provision was effective upon enactment of HOTMA.

5. **Section 114. Exception to Public Housing Agency Resident Board Member Requirement** - provides an exception for certain jurisdictions (Housing Authority of the County of Los Angeles or any PHA in the States of Alaska, Iowa, and Mississippi) from the resident board member requirements under section 2(b) of the 1937 Act.

Implementation guidance: This provision was effective upon enactment of HOTMA, although it has been in effect for a number of years through the appropriations acts. This statutory provision does not alter the regulatory provision at 24 CFR 964.405(b). As a result, no further action is needed to implement this section.

We realize that many PHAs are eager to implement the flexibilities and other statutory changes provided under HOTMA, so please be assured that HUD is working diligently to develop and provide the necessary implementation guidance in a timely manner. If you have any questions, please send them to [HOTMAquestions@hud.gov](mailto:HOTMAquestions@hud.gov).

As always, thank you for all you do in service to our shared mission to provide quality, affordable housing for deserving Americans.

With much appreciation,

A handwritten signature in black ink, appearing to read "Lourdes", with a long horizontal flourish extending to the right.

Lourdes Castro Ramírez