




Legislative Update

Nan McKay
Annie Stevenson




Today's Topics

- EIV Income Validation Tool
- 2019 Funding Update
- HOTMA Implementation Update
- VAWA 2013





Funding

Program	2018	2019
Vouchers	22,015	22,598
Admin Fees	1,760	1,886
PH Capital Fund	2,750	2,775
PH Operating Fund	4,550	4,653




EIV Income Validation Tool




EIV Income Validation Tool

- HUD announced in June 2018 that it would deploy the IVT by region
- The IVT replaces the income discrepancy report
 - Should be removed from EIV
- Mandatory IVT use required per Notice PIH 2018-18
- Training slides available on EIV website



EIV Income Validation Tool

- The IVT is intended to reduce false positive results produced by the income discrepancy report by:
 - Comparing a more recent period of EIV income to current 50058 income
 - Last 6 months prior to reexam



EIV Income Validation Tool

- The IVT is intended to reduce false positive results produced by the income discrepancy report by:
 - Excluding EIV income of some family members
 - FT students
 - Live-in aides
 - Youth under 18
 - PH residents paying flat rent



EIV Income Validation Tool

- Use of IVT is mandatory for new admissions and annual/interim reexams
- Must resolve any discrepancies due to unreported income source or "substantial difference" in amounts received
 - Substantial difference = \$2,400 per year





EIV Income Validation Tool

- Remember that the IVT is comparing past EIV income to anticipated/future 50058 income
- This will result in discrepancies for families that have lost a source of income
- Staff should be aware that false positives will occur
 - Substantial difference is not necessarily an indicator of unreported or under-reported income




**HOTMA
Implementation
Update**


Today we'll cover:


- History of HOTMA
- Implementation to date
 - PH provisions implemented in 2018
- Provisions awaiting implementation



History

- Housing Opportunity Through Modernization Act (HOTMA) signed into law 7/29/16
 - Revised version of unsuccessful housing reform bills presented to Congress over the past decade
- Some HOTMA provisions are effective immediately, some can be implemented by notice, and others require rulemaking


 July 2016




History

Federal Register Notice 10/24/16

- Initial implementation guidance
- Clarified self implementing provisions
 - Preceded by a 9-26-16 letter to EDs







History

Federal Register Notice 1/18/17

- *Implementation of Various Section 8 Voucher Provisions*
 - Effective 4/18/17
 - Notice made provisions effective, but HUD was also seeking comments on those provisions
- Corrections notice: FR Notice 7/14/17







History

Federal Register Notice 1/18/17


- The notice contains implementation instructions for:
 - Optional pre-contract inspection policies for HCV & PBV
 - PBV program changes
 - Change in HAP calculation for manufactured home owner renting a space






History Notice PIH 2017-20


- Implementation guidance for HOTMA initial inspection provisions in the January 2017 notice
- Published 10/27/17
- Applies to tenant-based HCV & PBV






History Implemented in 2018

- Federal Register Notice 7/26/18
 - "Final implementation" of PH over-income rule
- Notice PIH 2018-19 published 11/2/18
 - PH minimum heating standards



Important

- Only those HOTMA provisions covered by these notices can be implemented at this time
 - HUD will implement remaining provisions via future formal rulemaking
 - Proposed rule, public comment, final rule
 - Must comply with regulatory reform requirements



Self Implementing Provisions FR Notice 10/24/16



1. Exception Payment Standards

- PHAs may establish payment standard up to 120% of FMR without HUD approval as a reasonable accommodation
 - Already implemented by the streamlining final rule published 3/8/16 (effective 4/7/16) and clarification published in PIH 2016-05



2. Payment Standard Decreases

- During a HAP contract, if PS decrease is required because of a decrease in the FMR, PHA may:
 - Reduce PS at family's 2nd annual reexam; or
 - Continue to use existing higher PS; or
 - Set a PS at an amount between current PS and new applicable PS and then reduce family's PS over time



3. Family Unification Program (FUP)

- Changes to length of term FUP-eligible youth may receive assistance from 18 months to 36 months
 - Applies to current as well as new recipients



4. Other provisions

- 2 provisions apply only to specific PHAs
 - Preference based on citizenship for Guam
 - Exceptions to certain resident board member requirements for the Housing Authority of the County of Los Angeles or any PHA in the States of Alaska, Iowa, and Mississippi
- A few other provisions that do not effect public housing or HCV



Implementation Notice
January 2017



Overview

- FR Notice with initial implementation guidance
 - Published 1/18/17, effective 4/18/17
- PIH Notices 2017-20 and 2017-21 contain additional implementation guidance
- Two optional policies:
 - Approving tenancy with non life-threatening deficiencies
 - Use of alternative inspections



Non-Life Threatening Deficiencies

- PHAs may approve tenancy, execute the HAPC, and make payments for units that fail initial HQS inspection if deficiencies are not “life-threatening”
 - Defined in HOTMA and PHA policy
 - Must amend the admin plan to implement




Alternative Inspections

- PHA may approve tenancy before initial inspection if property passed *alternative inspection* in previous 24 months
 - E.g., HOME, tax credit, HUD inspections
 - HUD approval required for other alternatives
 - Must be able to obtain results of alternative inspection




Streamlining & HOTMA

- Streamlining rule allows PHA to use alternative inspections for annual inspections, but not initials
- HOTMA has a provision for alternative inspections for initials
- Could adopt one or both




Optional Policies

- PHAs that adopt these optional policies under HOTMA must notify owners and families
- Must notify HUD at least 30 days before adopting
 - Tracking purposes
 - Adjustment of SEMAP scores



Manufactured Home Owner

- Assistance for owners of manufactured homes is a special housing type
- Optional for PHAs unless necessary as a reasonable accommodation
- HOTMA revises the HAP calculation for these participants in two ways



Manufactured Home Owner

- Payment standard
 - PS is now the lower of the voucher bedroom size or bedroom size of the manufactured home
 - PHA's regular payment standards are used
- "Space rent"
 - For purposes of HAP calculation, the definition of "rent" is revised to include debt service and fees



2018 Implementation Public Housing Provisions




PH Over-Income Rule

- Federal Register Notice 7/26/18
- "Final implementation" of PH over-income rule
- Resident family income must exceed limit for 2 consecutive years
- But HUD must publish "over-income income limits" (generally 120% AMI) and unit monthly subsidy amounts




PH Minimum Heating Requirements

- Notice PIH 2018-19 published 11/2/18
- Implementation of minimum heating requirements for public housing
- PHAs must use local standards, or HUD standards if local standards do not exist




Provisions Not Yet Implemented




Provisions Awaiting Implementation

- Remember, HUD still needs to interpret the law and go through the rule making process
 - We have to wait and see how all of these provisions are interpreted
 - DO NOT AMEND YOUR POLICIES YET




Income

- Calculation of annual income
 - Initial occupancy: Projected income is used
 - After initial year: Prior-year income use is mandatory
 - HUD will have to work out what, if any, exceptions will be given to prior-year income based on HOTMA limitations
 - “Adjustments will be available to reflect current income”
 - Would not be effective until beginning of calendar year after regulations are issued




Income

- HUD will need to define “prior-year income”
 - Previously available as a “temporary compliance option” 2013-2015
 - Defined as most recent 12-month period available in EIV, regardless of income source
 - Example: 10-1-17 through 9-30-18
 - Interim decreases required for change of circumstances
 - No interim increases



Income

- PHA may use income information determined by another federal assistance program
 - Requires HUD to work with other federal agencies to develop electronic procedures enabling PHAs to access income determinations for other federal means-tested programs



Income

- Stricter enforcement of minimum rent hardship exemptions
 - Due to widespread noncompliance
 - Notification is key issue
 - HUD can monitor remotely through PIC data



Income

- Exclusion for aid and attendance for veterans
 - Currently only the portion used for medical expenses is excluded
- HUD may not require PHAs to maintain records of excluded income



Income

- Elimination of the earned income disallowance (EID)
 - Eliminated in HOTMA Section 102(a)(2) by repealing the section of the 1937 Housing Act that established EID
 - Confirmed with HUD HQ



Income

- Elimination of the earned income disallowance (EID)
 - HUD has not determined whether current EID recipients will be “grandfathered in”
 - Currently there are two sets of rules for EID
 - Original rule for those who qualified on or before 5/8/16
 - Streamlining rule for those who qualified after 5-8-16



Assets

- Exclusion of imputed asset income, unless net assets exceed \$50,000
 - May accept self certification from the family
 - Currently the “extra step” applies when assets exceed \$5,000
 - PHAs will still need to establish the passbook rate for imputed asset income



Assets

- Optional asset cap of \$100,000
 - Will your agency impose the cap?
 - How many families will it affect?
- May not have an ownership interest in real property that is suitable for occupancy
 - Exception for VAWA or if the family is selling
 - What is “suitable?” Is location considered?



Assets

- Excluded from assets:
 - Retirement accounts
 - Amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a member of the family that resulted in a member of the family being disabled
 - 529 college savings accounts



Adjusted Income

- Increases elderly/disabled allowance from \$400 to \$525
- Deduction for medical expenses which exceed 10% of annual income (changed from 3%)
- Hardship exemptions required
- May result in decreased TTP if medical expenses are low




Interim Decreases

- At any time family may request an interim if a change in income/deductions causes a 10% or more decrease in adjusted income
 - PHAs will no longer process interim decreases when adjusted income has decreased less than 10%
 - Effectively repeals the Brooke Amendment




Interim Increases

- PHA must perform an interim if change in income or deductions results in 10% or more increase in adjusted income
 - Except any increase in earned income
 - Unless increase in earned income corresponds to previous decrease
- PHA not required to conduct an interim in the last 3 months of a certification period




Interim Increases

- Currently PHA policy determines which interim increases will be processed, if any
- Some PHAs process some but not all, under a variety of policies
 - Increase of \$XX per month/year
 - Type of income
- Other PHAs do not process interim increases
 - Self-sufficiency incentive



Interim Increases

- How will this new requirement tie in with:
 - Requirement to use prior-year income after initial year of assistance?
 - EIV discrepancy resolution?
 - New income validation tool (IVT)



Utility Data

- Requirements for HUD to provide PHAs with data on local utility consumption for use in determining utility allowances



HCV Abatements

- Abatements must last for a minimum of 60 days until family must move
 - PHA may establish longer reasonable period
 - Currently up to PHA policy
 - Some PHAs implemented unreasonably short abatement periods such as 14 days
 - Resulted in need for new tenancy approval in same unit
 - Unnecessary since no HAP is paid during abatement





HCV Abatements

- Must provide family 90 days or longer to locate new unit in this case
 - Exception to 60-day minimum search term
 - Could be same unit if meets HQS
 - If family can't find a unit, provide a preference for occupancy in a PH unit




VAWA Update


Today's Topics

- Recent VAWA developments
- VAWA 2013 Update
 - Notification requirements
 - Review of new forms
 - Emergency transfer plans
 - Notice PIH 2017-08



The Violence Against Women Reauthorization Act (VAWA)

- To reduce domestic violence, dating violence, sexual assault, and stalking
- To prevent homelessness of the victims of such acts
- To protect victims who reside in PH and HCV
- Despite its title, VAWA applies regardless of sex, gender, or sexual orientation



Denial of Admission

- VAWA prohibits PHAs from denying admission to otherwise qualified applicants simply because they are, or have been, victims



Terminations

- VAWA states that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking:
 - Will not be construed as a serious or repeated violation of the lease by the victim
 - Will not be good cause for terminating the tenancy or occupancy rights of the victim




Moves

- Prior to VAWA, a PHA was prohibited from providing portability to a family that moved out of its assisted unit in violation of the lease
 - VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a victim
 - Under new rule, other portability exceptions may apply in some cases




VAWA 2013 Background

- *Federal Register* notice August 6, 2013
 - Overview & initial implementation
- Letter to executive directors September 2013
 - Notification requirements
- Final rule published November 16, 2016
 - "Compliance date" May 15, 2017
 - Emergency transfer plans effective date: June 14, 2017




VAWA 2013 Background

- Revised VAWA forms posted December 2016
 - Translated versions: May 2017
- Notice PIH 2017-08
 - May 19, 2017



VAWA 2013

- Expands protections to victims of sexual assault
- Replaces the term "immediate family member" with "affiliated individual"
 - Spouse, parent, brother, sister, or child of the victim, or an individual to whom the individual is in loco parentis, or any individual, tenant, or lawful occupant living in the unit



Notification

- VAWA informing notice and certification form must be provided
 - To current participants within 12 months after effective date of final rule (by December 16, 2017)
 - To all new admissions
 - With any notice of denial, and
 - With any notice of termination



Notification

- Model owner notification of rights and obligations
 - Appendix II of PIH 2017-08
 - 6 pages
 - Notice is optional (HUD encourages its use)
 - VAWA information is included in tenancy addendum



VAWA 2013 Guidance

- All tenants and applicants, and not only those determined to be victims of domestic violence, dating violence, sexual assault, or stalking, receive statutorily required notification of their VAWA rights
- Clarifies that PHAs may establish a preference for victims



VAWA 2013 Guidance

- The VAWA final rule provides that PHAs cannot deny, terminate, or evict on the basis of *or as a direct result of* domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy



VAWA 2013 Guidance

- Common “adverse factors” which may be the result of domestic violence, dating violence, sexual assault, or stalking:
 - Poor credit history
 - Poor rental history
 - Criminal record
 - Failure to pay rent



VAWA 2013 Guidance

- Other disqualifiers may also stem from VAWA issues, therefore PHA must offer VAWA forms to anyone being denied or terminated and must evaluate each VAWA claim on its own merits
- Guidance in section 7.3 (pg. 9) of Notice PIH 2017-08



VAWA 2013 Guidance

- Guests, **unassisted members**, and live-in aides of the family are ineligible for VAWA protections that are available only to tenants and participants



Reasonable Time to Establish Eligibility

- Applies only to mixed families in which victim is noncontending family member
- Following a lease bifurcation in which the perpetrator was the eligible HOH
- Must allow 30 days for victim to establish eligibility



Notice PIH 2017-02

- Issued 1/19/17, VAWA self-petitioner verification procedures
- Since financial assistance is prohibited to ineligible noncitizens, but assistance must not be denied while verifying immigration status:
 - VAWA self-petitioners can indicate they are in "satisfactory immigration status"...



Notice PIH 2017-02

- *Satisfactory immigration status* – status which does not make the individual ineligible for financial assistance
- Noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a US citizen or legal permanent resident (LPR)



Notice PIH 2017-02

- Receipt of self-petition (INS forms I-360, I-130, or 797) prohibits PHA from requesting additional verification information
- Notice describes a 3-step procedure for verification
- After verifying status, PHAs will make a final determination as to the self-petitioner’s eligibility for assistance



VAWA 2013 Guidance

- As a reasonable accommodation, a tenant/participant can request VAWA protections based on the grounds that the live-in aide is a victim
 - “Other reasonable accommodations may be needed on a case-by-case basis”



Certifications

- As specified in the new final rule, if the PHA requests documentation, the applicant or tenant may submit one of the following:
 - A signed HUD-5382
 - A document signed by a "professional" and signed by the applicant or tenant that specifies that the professional believes the occurrence is grounds for VAWA protections



Certifications

- Individuals requesting protection cannot be required to provide third-party documentation
 - Although PHA may require third-party if there is conflicting information




Emergency Transfers

- PHAs must establish an emergency transfer plan (ETP) for victims as part of their admin plan
- PHA may be able to use current practice as a basis if it meets requirements
- Must adopt policies and provide emergency transfers no later than June 14, 2017




Emergency Transfers

- ETP must provide for immediate transfer to a safe unit if one is available and client would not have to apply
- Policies must describe priority of VAWA transfers in relation to other transfers
- Must describe policies for emergency transfers of HCV participants




Emergency Transfers: PBV

- PHA **must** allow emergency transfer to tenant-based HCV if tenancy is 1 year or more
 - If voucher available
- PHA policy **may** allow emergency transfers to tenant-based HCV after less than 1 year
 - Not mandatory



Emergency Transfers

- HCV owners (including PBV) are not required to provide emergency transfers
 - Refer any requests to PHA
 - PHA is the "covered housing provider" referenced in the rule



Emergency Transfers

- PHA may choose to provide a voucher to facilitate the emergency transfer without having first terminated assistance to the perpetrator
- PIH 2017-08 includes step-by-step examples of emergency transfer procedures for PH, HCV & PBV



Good Standing Requirements

- Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements



Confidentiality

- Information provided to PHA or HCV owner or manager:
 - Shall be retained in confidence
 - Shall not be entered into a shared database or provided to any related entity
 - Unless individual consents or requests
 - Unless required for use in eviction/termination proceedings
 - Unless otherwise required by law



VAWA 2013 Policies

- PIH 2017-08 includes a 5-page list of policies required for annual plan and admin plan
 - Appendix I
- PHAs should have already implemented some of the required policies
 - Review list and revise as necessary



Notice PIH 2017-08

- Issued May 19, 2017
- Provides detailed guidance for implementing requirements in the final rule for VAWA 2013
- Offers useful examples and scenarios, and provides clarifications on certain aspects of the rule



Notice PIH 2017-08

- The notice:
 - Recommends documenting in a confidential manner when verbal statement or other evidence is accepted
 - Provides various clarifications and considerations with respect to requesting third-party documentation in cases where information conflicts



Notice PIH 2017-08

- The notice:
 - Clarifies that PHAs and owners may not conduct further “fact finding” to verify the “validity” of victim status, although if PHA or owner already has or receives reliable conflicting information, they may require additional third-party documentation



Notice PIH 2017-08

- The notice:
 - Clarifies that providing form HUD-5380 to tenants/participants by December 16, 2017, can be done at recertification, lease renewal, or if no recert or renewal during first year, through other means as determined by the PHA



Notice PIH 2017-08

- The notice:
 - Offers guidance and best practices for proper communication with victims, specifically in avoiding inadvertent disclosure of information and keeping the victim safe



Notice PIH 2017-08

- The notice:
 - Clarifies that when the perpetrator is a VASH participant, the victim must still be able to be eligible for assistance
 - Encourages partnerships with victim service providers



Form HUD-5383

- Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- “Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.”



Summary

- Questions?
- Comments?
- Thank you for attending!
- We hope to see you again soon



Please take a moment to give us your feedback on this session

- Open The Housing Conference app on your phone and click on the "Schedule" icon
- Choose a day, then scroll down to find the title of this session
- Or search for the session title in the search box
- Click on the title and scroll down to "Surveys"
- Click on "Please take a moment after this session to give us your feedback"
- Thank you!