

Resident Rent for Federal Housing Programs

RESIDENT ACADEMY
 THIRD SESSION
 MAY 29, 2012
 NATIONAL HOUSING LAW PROJECT

HOUSING JUSTICE

National Housing Law Project

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Today We Will Cover

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- Issues related to the definition of income, and
- How the tenant share of rent is determined for
 - Public Housing
 - Project-Based Section 8
 - Voucher Program
- Why is this important?
 - Help residents understand how rent is established
 - Provide information to resident leaders so they may assist others
 - Learn the rules in other programs because
 - more families are switching between programs;
 - understand rules of other programs so as to help with advocacy
 - Other reasons please let us know why session is important

Today's Presenters and Questions

④

Presenters

- Mac McCreight, Greater Boston Legal Services
- Rhenea Keyes, Voucher Participant, Vacaville CA
- Catherine Bishop, National Housing Law Project

Questions

- There is a question and answer period Thursday, May 31 (same time). Everyone who is registered for today's session will get information on how to join
- Please submit your questions in the Question Box or send questions to ResidentAcademy@nhlp.org

Materials

⑤

- PowerPoints
- Reminder
 - The materials and recording of the webinar "Subsidized Housing Programs: A Basic Overview for Tenants" and "Know Your Participation and Organizing Rights in HUD-Assisted Rental Housing" are posted on NHLP website at <http://www.nhlp.org/webinars>
 - The PowerPoints and recording for today's session will be posted at the same place

A few things to start...

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- Distinguish between **tenant portion** of the rent and the full **contract rent**.
 - For Section 8 voucher & multifamily, easy to figure out and on rent forms.
 - For public housing, there's nothing quite like this.
- The idea of rent includes what the tenant pays for **utilities (other than phone, cable, internet)**. **Gross rent** is the combination of the **contract rent** & what the tenant is expected to pay for utilities (**utility allowance**).

**Brooke Act for All Programs
(basic rules)**

⑦

Rent (Total Tenant Payment, or TTP) is the highest of:

- 30% of Adjusted Annual Income
- 10% of Annual Income (without adjustments)—not common, usually only for those with large medical/child care costs
- Minimum Rent (see below)

TTP includes any tenant-paid utilities (using utility allowances).

Minimum rent, suspension & waiver

⑧

Public Housing	Minimum rent can be set anywhere from \$0-50/month (check local PHA policy)
Voucher Program	Minimum rent can be set anywhere from \$0-50/month (check local PHA policy)
Project-based § 8	Minimum rent is \$25/month
Hardship for all Progs.	<p>Suspension of Minimum Rent: For economic hardship which is temporary (less than 90 days)</p> <p>Waiver of Minimum Rent: If economic hardship is for more than 90 days</p>

Utility Allowances, Surcharges, etc.

⑨

Public Housing	PHA sets allowances if tenants pay utility or may set surcharges for excess usage or appliances
Voucher Program	PHA sets different utility allowances and must update for different building types, utilities, and bedroom sizes
Project-based § 8	Allowance set by Owner case by case and by building
Reason. Accommod. & Indiv. Relief	Adjustment of allowance is possible, if utility consumption higher for reasons out of tenant's control

Does everyone pay Brooke Act rents?

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Public Housing	Brooke is usually the rule, but those with “flat rents” may pay less, and some PHAs have additional adjustments.
Voucher Program	Many Voucher tenants pay more, because the Gross Rent requested by the owner exceeds the PHA subsidy (not so for Project-Based Vouchers).
Project-based § 8	Yes Poll question

Adjustments to Income

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- ✓ \$400/year for **elderly/disabled family** (where head or spouse is 62 years of age or a person with disabilities)
- ✓ \$480/year for child under 18, or adult who is a full-time student or disabled (other than head or spouse)
- ✓ Child care expenses (care of children under age 13) to allow work/training
- ✓ Medical expenses (in excess of 3% of annual income) for elderly/disabled family
- ✓ Disability assistance expenses (in excess of 3%) to enable person with disabilities to work—can be combined with medical expenses to exceed 3%.

Medical Expenses Include:

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- Co-payments, lab fees
- Out of pockets for prescription drugs
- Insurance premium costs
- Dental expenses
- Transportation related to medical treatment
- Can use past expenses, but can't count twice (for example, couldn't use a bill from more than 12 months ago, which should have been used in the prior recertification of income).

Problem #1: Deductions from Income

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Tenant has multi-generational family—her mother, who is 67 and gets Social Security & retirement benefits, and her children, ages 10 & 14. One of the children is disabled (gets SSI). Tenant works and has medical insurance premiums, co-payments, and dental expenses.

Problem #1: Rent Deductions (cont.)

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Poll question

Question #1: What deductions should be explored?

Question #2: What could you try to do that might help with getting more deductions?

Question #3: Does it matter which housing program the client is in?

What's Counted In Annual Income?

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- Go by anticipated (projected) income for next 12 months. Can use past income to project future income, but not if more recent information shows this would be inaccurate (new job, reduced hours, etc.)
- Earned income of all adults (18 and over) counted, except only \$480 for full-time students other than head/spouse.
- Count unearned income for minors (SSI/SSDI, TANF, etc.)
 - Temporary Assistance for Needy Families (TANF)

Assets, Lump Sums, and Income

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- PHA/owner must get information on assets family members have, and figure out if income is earned on it. If net family asset exceeds \$5,000, HUD will “deem” interest earned using current passbook rate (don’t count car, clothing, furniture).
- Lump sum SSI/OASDI/veterans awards don’t count as income. Other lump sums are included in income
 - Old Age Survivors Disability Income (OASDI)

Help From Others Not in Household

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- If family gets a one-time gift, or sporadic assistance that isn’t regular, don’t count.
- PHA/owner will count regular contributions from others, even if not in the form of cash payments (for example, helping with phone bill, groceries, etc.)
- *Food Stamps NOT counted.*

What if Income Fluctuates?

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- Obligation to report depends on program and PHA policy (see later discussion).
- Owner/PHA can count overtime, etc. in figuring out average for projection.
- Tenant can seek to change this if hours or rate of pay drops, and should document when and what was reported to PHA/owner.

Annual Recertification Required for All Programs

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Public Housing and Vouchers	<ul style="list-style-type: none">• PHA may start eviction/ termination proceeding if tenant doesn't report on time.
Project-based § 8	<ul style="list-style-type: none">• Rents can be increased to market level if tenant fails to report on time (and tenant may be stuck with these charges).• Owner <u>must</u> stick to HUD procedures on notice.

Effective Dates for Rent Increases (Annual Recertification)

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- Normally would get 30 day advance written notice of rent increase.
 - If tenant late reporting, may be that change is with less notice, or even retroactive.

- If the delay in completion is NOT due to the tenant, but PHA/owner or third party, should still get full notice of rent increase.

Problem #2: Delay in Annual Recertification

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Ms. Omar lives in HUD multifamily housing with a project-based Section 8. She had a family crisis that meant she was away for a while. When she comes home, she finds that the owner increased her rent from \$200/month to \$1500/month, saying that she missed getting her annual review papers in on time.

Problem #2:
Late Annual Recertification (cont'd)

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What should Ms. Omar do right away?
Is there any way to get rid of the market rent charge if it's already recorded?
Can the owner consider mitigating circumstances?

**Interim Reporting of
Increases in Income** poll

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Public Housing	Voucher	Project-Based § 8
<ul style="list-style-type: none"> • Depends on PHA's Admissions and Continued Occupancy Policy (ACOP) and lease. 	<ul style="list-style-type: none"> • Depends on PHA's Section 8 Administrative Plan. 	<ul style="list-style-type: none"> • Must report increase of \$200/month or more from when last reported

Reporting of Decreases In Income

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- **ALWAYS** in tenant's interest to report this right away.
- **Multifamily:** Owner may delay processing until verifications obtained, but retroactive to the 1st of the month after tenant first reports. Owner may not evict for nonpayment when income loss reporting until adjustment made and tenant given 30 days to pay any balance owing.
- **ADVOCATE TO GET SIMILAR POLICIES FOR PUBLIC HOUSING & VOUCHER LOCALLY**
- Poll question

HUD Is Watching You! (Enterprise Income Verification, or EIV)

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- HUD requires all PHAs/owner to cross-check income reported with regular reports HUD gets from SSA and employment sources. If things don't match, PHA/owner is required to independently verify.
- **Tenant must pay back if income should have been reported and wasn't. 40% cap on repayment plans generally.**

Public Housing "Flat Rent" or "Rent Choice"

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- Tenants can elect to pay either Brooke Act or "Flat Rent" (usually only a better option if tenant income is fairly high). Each PHA has its own "flat rent" policy/figures.
- "Flat rent" tenants only need to recertify every 3 years.
- "Flat rent" tenant can ask to switch to Brooke Act rent where economic hardship.

Earned Income Disregard

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- Mostly in **public housing** (is a program in Section 8 voucher for disabled persons, nothing in Section 8 multifamily).
- Qualify
 - if employed while on or within 6 months of being on public assistance, or
 - after 12 months of unemployment (including very limited employed), or
 - after participation in certain training programs.

Earned Income Disregard (cont.)

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- Disregard is for 100% of increased income as a result of employment for one 12-month period and 50% of increased income for a 2nd 12-month period.
- Clock “stops” when there are breaks in employment.
- Must be used within 48 months of qualification (start of employment)—anything not used is lost.
- Eligible for only once

Problem #3: Earned Income Disregard

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Tenant was on welfare (TANF) benefits, which ended 8 months ago, and was then on minimum rent for 5 months. She then got a job. Does she qualify for the Earned Income Disregard?

Question 1: Does it matter which program she's in? [poll question]

Question 2: The PHA says it will use the TANF income and disregard the increase. Is this right?

Prorated Rents (Impact on Immigrant Families)

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- Congress provides that unless all members of the family are U.S. citizens/nationals or have “eligible immigration status”, the family doesn’t get the usual full subsidy but only a partial subsidy based on percentage who are eligible (**proration**).
- When status is adjusted (for example, person gets legal permanent resident status or “green card”), should report right away to get more affordable rent.

California Voucher Tenant Wins Income Deduction

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- Annual income does not include
- Amounts paid by a State agency to a family 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 are excluded from annual income. 24 CFR 5.609(c)(16)
 - A person who is Developmentally Disabled is defined in 42 USC 6001 (24 CFR 5.403)
 - CA State Supplemental Payment

Follow up and Enforcement

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- Contacted PHA
 - Gave them the documentation
 - Explained problem
- Contacted local HUD office in San Francisco
 - Explained the problem
- HUD office in Washington DC
 - HUD office asked for documentation of SSP, verification that son was living at home and Doctor's statement regarding need
 - Response
 - Referred to Section 8 official in DC
 - HUD Sacramento Office
- PHA thanked resident for explaining the program

Special Problems with Section 8 Voucher Rents

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IF we do not have time for these questions today, we will address them on Thursday , May 31, 2012

1. I Can't Rent an Apartment Because Gross Rent Means Will Pay More than 40% of Income
2. The Owner Now Wants More Rent and:
 - (a) PHA Won't Approve It; or
 - (b) It's More Than I Can Afford

**Additional Special Problems With
Section 8 Voucher Rents**

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- 3. My Daughter Left, and They've Cut the Subsidy from a 3-BR to a 2-BR Level.
- 4. The PHA Has a Financial Crisis, They're Cutting Their Subsidies, and the Landlord Says It's My Problem.
- 5. I'm Moving, and Counted On Having a 3-BR Subsidy Given My Family Make-Up—but the New PHA Says They Have Different Rules.

Follow Up Discussion

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Thursday, May 31, 2012 at 6:00 PM ET
(5:00 PM CT; 4:00 PM MT; 3:00 PM PT)

If you have brief follow questions for the Thursday question and answer discussion

Please send them now as part of this webinar or email ResidentAcademy@nhlp.org

Please be advised that this is a training. We do not represent you and we are not your lawyers.

Thank you

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- Please fill out the evaluation form that we will send to your email

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