

BHA's HOTMA ADMIN APPENDIX

Background

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) was enacted on July 29, 2016. The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. On September 17, 2019, HUD issued a proposed rule to update its regulations according to HOTMA's statutory mandate. The proposed rule may be found at 84 FR 48820 (September 17, 2019).

Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews. **Section 102** changes requirements related to income reviews for Public Housing and Section 8 programs. **Section 104** sets maximum asset limits for Public Housing and Section 8 applicants and participants.

Despite later compliance date, the final rule implementing Sections 102 and 104 of HOTMA is in effect, but compliance with some of the income and assets provisions in these sections of HOTMA requires access to the HOTMA-compliant HUD-50058.

In order to update BHA's policy documents for HOTMA, HUD has advised PHAs to create an appendix to their Administrative Plan or ACOP that contains the HOTMA policies that will apply to actions effective on or after January 1, 2027. BHA has informed all program participants of the date the BHA will transition to HOTMA policies, January 1, 2027.

This appendix contain just the policies that are relevant to Sections 102 or 104 of HOTMA

Section 102

Interim Re-Certifications

All families are required to report any changes in family **unearned income** that will result in an increase of 10% or more in annual adjusted income.

Boston Housing Authority will perform an interim reexamination when the family reports a change in **unearned income** that will result in an increase of 10% or more in annual adjusted income.

Boston Housing Authority will take into consideration not only changes to unearned income but must also consider changes to eligible deductions, if applicable, to determine if an interim reexamination will be completed.

Boston Housing Authority will not consider any increase in **earned income** when estimating or calculating whether or the family's adjusted income has increased at an interim.

No interim reexaminations will be conducted due to **increases** in unearned or earned income in the 3 months before the next regular annual examination.

Phased-in Relief

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income examination prior to compliance date, will begin receiving the 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after the HOTMA compliance date of January 1, 2027.

Families who receive this phased-in relief will have eligible expenses deducted as follows:

- 1st twelve months– in excess of 5% of annual income.
- 2nd twelve months – in excess of 7.5% of annual income.
- After 24 months – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for general hardship relief.

Once a family chooses to request and is granted General Relief, a family may no longer receive the phased-in relief.

General Relief

A family may request a hardship exemption for health or medical care expenses, reasonable attendant care, or auxiliary apparatus expenses.

- The Family must notify the BHA in writing within (30) days, from the date the family experiences a change in circumstances that has resulted in the financial hardship.
- Eligibility: A family must demonstrate that their applicable expenses increased or they experienced a change in circumstances that resulted in a financial hardship, as defined below, which would not otherwise trigger an interim reexamination. This relief is available regardless of whether the family previously received health and medical deductions or is currently receiving, or previously received, a phased-in hardship exemption.
- A change in circumstances includes the need for new, qualifying, health/ medical, reasonable attendant care and auxiliary apparatus expenses or an increase in the cost of qualifying expenses so that qualifying expenses exceed 5% of the family's annual income.
- The exemption ends when the circumstances that made the family eligible for the exemption no longer apply or after 90 days, whichever comes earlier.
- If the family wishes to request a successive 90-day period for the exemption, they must notify the BHA in writing prior to the expiration of the current eligibility period and must demonstrate to the BHA why an additional period of exemption is warranted.

If BHA determines that the expense giving rise to the hardship exemption will not end within 90 days, BHA may grant one or more 90-day extensions in advance.

BHA will not consider more than four (4) consecutive requests for this hardship exemption.

Verification Requirements:

A third-party written verification the family has experienced unanticipated expenses that have affected their ability to pay rent.

BHA may not request documentation beyond what is sufficient to determine anticipated health and medical care and/or reasonable attendant care and auxiliary apparatus costs or when a change in circumstances took place.

Attendant Care

BHA will accept written third-party documents provided by the family. If family-provided documents are not available, BHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or canceled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, BHA may consider an alternative certification as to costs anticipated to be incurred and the anticipated period.

Auxiliary apparatus expenses will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the period for which the hardship is requested.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party or document review is not possible, BHA may consider an alternative certification of estimated apparatus costs for the period for which the hardship is requested.

In addition, BHA will verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.

Family member(s) permitted to work:

- BHA will verify that the expenses claimed enable a family member, including the person with disabilities, to work.
- BHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work.
- This documentation may be provided by the family. If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense enables a family member, including the family member receiving the assistance, to work.

Unreimbursed Expenses:

- To be eligible, the costs must not be reimbursed by another source.
- The family is required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

Hardship Exemption for Childcare:

A family's whose eligibility for the child-care deduction is ending may receive a hardship exemption to continue a child-care expense in certain circumstances.

BHA will recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates that the family is unable to pay their rent due to the loss of the child-care expense deduction and the child-care expense is necessary even though the family member is no longer working, looking for work, or furthering their education. The hardship and the resulting alternative adjusted income calculation will remain in place for a period of up to 90 days.

It is the policy of the BHA to extend the childcare expense deduction for additional 90-day periods if the family demonstrates that they are unable to pay their rent because of loss of the child care expenses deduction, and the child care expense is still necessary even though the family member is no longer employed, looking for work, or furthering his or her education.

BHA may terminate the hardship exemption if it is determined that the family no longer needs the exemption.

It is the Family responsibility to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. If the family reports the change in circumstances in a timely manner within 7 days, **BHA** will provide the family with 30 days advance notice of any rent increase, and such rent increase will be effective the first day of the month beginning after the end of that 30-day notice period. If the family does not report the change in a timely manner, the adjustment will be made retroactive to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement.

Hardship may include but not limited to the following situations:

Child Care Expenses

- A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a need for continued child care expenses.
- A health/ medical issue in the family which has created the need for continued child care expenses. In order to qualify under this provision, a family must describe how the health or medical issues have created a need for continued child care expenses.

A family is considered to have a hardship when:

- The household's family share of total housing costs exceeds 35 percent of adjusted household income.
- Or when the family would be evicted because it is unable to pay the tenant portion of the rent.

Family Health and Medical Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

- A change in circumstances includes the need for new, qualifying, health/medical, reasonable attendant care and auxiliary apparatus expenses or an increase in the cost of qualifying expenses so that qualifying expenses exceed 5% of the family's annual income.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.
- The family may receive a deduction of all eligible expenses exceeding 5% of their annual income.

- The exemption ends when the circumstances that made the family eligible for the exemption no longer apply or after 90 days, whichever comes earlier.

Net Family Assets:

It is the policy of BHA to determine each family's net family assets at the time of admission and/or at annual and interim reexaminations.

BHA shall collect asset information from participant annually. The BHA must fully verify using third-party documentation at new admission and every three years, but may choose to verify assets at any certification.

Third-party verification of assets is always required when net family assets exceed \$54,898, adjusted annually by HUD.

When determining Net Family Assets, *BHA* will take the following steps:

- Provide the family with a description of necessary and non-necessary personal property and ask the family to estimate the total value of their non-necessary personal property.
- BHA will ask the family to report a full list of their non-necessary personal property. BHA will assess the list to determine if any of the items are necessary personal property. BHA will make a determination as to each item identified, based on HUD or BHA guidance, and if the item is determined to be necessary, or otherwise excluded from net family assets, like a retirement account, educational savings account, etc, it will be excluded from the family's net assets.

BHA will consider the following to be necessary items of personal property but not limited to:

- Any automobile regularly used by a member of the family to commute to work, school, or childcare
- Any computer or electronic device (such as laptop, tablet, monitor, or cellphone) that is used by any family member to work, look for work, or study
- Any item used for religious purposes (such as a historic book of scripture).
- Any furniture used in the family's home
- Jewelry or other keepsakes which hold religious or cultural value, or deep family significance. For example, a watch which has been in the family and passed down from generation to generation.

BHA will consider the following to be non-necessary items of personal property but not limited to:

- Bank accounts and other financial investments (e.g., checking account, savings account, stocks/bonds)
- Any automobile that is used purely for recreation (such as an RV or camping trailer) and not for any of the defined "necessary" uses, is a "non-necessary" item of personal property and is included in the calculation of net family assets
- Collectible items (such as sports cards or trading cards) that are not used for a work-related purpose by a family member

BHA may make case-specific determinations of other "necessary" items.

Authorization of Release of Information (HUD 9886A):

Applicants and participants, including all adults (i.e., 18 years of age and older) in their households, are required to sign the HUD 9886A Authorization for Release of Information form. All applicants must sign the consent at admission, and participants must sign the consent form.

The BHA will deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information.

The BHA has established a policy that, upon the family's revocation of consent to allow the BHA to access records from financial institutions, the BHA will immediately move to deny admission or terminate the family from the program.

Safe Harbor Income:

The BHA has established a policy that we will not accept Safe Harbor income determination from other federal means-tested forms of assistance.

Passbook Rate:

HUD will annually publish a passbook rate. BHA must use the HUD-published passbook rate when calculating imputed assets income for net family assets that exceed \$54,898. For 2027, the passbook rate will be 0.38 percent.

BHA will use the HUD-published passbook rate in certification effective on or after the compliance date.

Section 104

Asset Limitation for New Admission

BHA will deny admission of an applicant family for the following:

- Net family assets that exceed \$109,797 (adjusted annually for inflation); and/or
- The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell (based on laws of the state or locality in which the property is located), real property that is suitable for occupancy by the family as a residence.

BHA will not enforce the asset limitation for all families at annual and interim reexamination.

References:

More information on HOTMA can be found by following the links below.

PIH Notice 2023-27 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

<https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf>

Exclusions, and Limitation on Assets Resource Sheet

<https://files.hudexchange.info/resources/documents/Assets-Asset-Exclusions-and-Limitation-on-Assets-Resource-Sheet.pdf>