

FOIA MARKER

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Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: Domestic Policy Council
Series/Staff Member: Andrea Kane
Subseries:

OA/ID Number: 20326
FolderID:

Folder Title:
Disabilities--Housing Disregards Rule and Legislative Proposals

Stack:	Row:	Section:	Shelf:	Position:
S	95	3	3	1



Barbara Sard <sard@gis.net>

09/08/2000 03:22:49 PM

Please respond to Barbara Sard <sard@gis.net>

Record Type: Record

To: housingwelfare@lists.cbpp.org

cc: Ann O'Hara <aohara@tacinc.org>, Jonathan Harwitz <jonathan.harwitz@csh.org>, Henry Korman <hkorman@gbls.org>

Subject: Proposed New Rule on Rents for Working Persons with Disabilities (and others); new Center paper

This listserv on issues related to the intersection of housing and welfare reform has taken an unexpected summer off due to Jeff Lubell's leaving the Center to be Director of the Office of Policy Development at HUD. We hope to have a replacement on board shortly. This alert about an opportunity to comment on a potentially important change in federal regulations, however, could not wait. I also want to draw subscribers' attention to a brief paper issued by the Center at the end of June about recent data from a study of the Minnesota welfare reform demonstration that showed dramatically greater progress on employment and earnings for families with housing assistance. The report, entitled "Research Evidence Suggests that Housing Subsidies Can Help Long-term Welfare Recipients Find and Retain Jobs," is at <http://www.cbpp.org/6-27-00hous.htm>.

The federal Department of Housing and Urban Development (HUD) published a notice for public comment on Aug. 21, 2000 that may be of great interest to agencies and advocates that are concerned about assisting persons with disabilities who live in all types of federally-assisted housing to enter the workforce. The proposed changes would also assist families with child care expenses (regardless of disability). The comment deadline is October 20, 2000. The notice also invites comment on the question of whether HUD should expand the current policy that disregards earnings of certain public housing tenants in calculating their rental obligation to Section 8 tenants, regardless of disability.

The proposed rule is briefly described below. To be brief, only the major aspects of the proposed changes are stated here. Interested persons may obtain a copy of the proposed rule at www.hudclips.org under "FR Notices Seeking Public Comment." The docket number is FR-4608-P-01; the notice is currently # 14 on this list, Determining Adjusted Income in HUD Programs Serving Persons With Disabilities.

HUD has proposed to extend current rules that require certain deductions from income in determining adjusted income and calculating rent in the public housing and Section 8 programs to additional HUD-assisted housing programs. The additional programs that would be covered include: the Shelter Plus Care and the Supportive Housing Programs under the McKinney Homeless Assistance Act; the 202 and 811 programs for the elderly and disabled, the HOME Investment Partnerships Program, the Housing Opportunities for Persons with AIDS program, and certain others.

a.. All households in the newly covered programs would be entitled to deduct "reasonable child care expense necessary to enable a member of the family to be employed or to further his or her education."


b.. In addition, households would be able to deduct a portion of expenses for attendant care and auxiliary apparatus for any member of the family who is a person with disabilities, if necessary to enable any member of the family to be employed. This applies to expenses necessary for a person with disabilities to work, as well as expenses for the care of a disabled child or other adult in the household that enables another family member to work.

c.. Elderly or disabled families would also be able to deduct a portion of unreimbursed medical expenses. This is limited to households in which the head, spouse or sole member is age 62 or older or a person with disabilities. It does not apply to other families with a disabled child. Second, HUD has proposed to extend the current policy requiring the disregard of earnings of certain public housing tenants (including but not limited to persons with disabilities) to disabled families in four additional programs: the Section 8 Voucher Program, the McKinney Supportive Housing Program, the HOME Investment Partnerships Program and the Housing Opportunities for Persons with AIDS program. Households would qualify for the disregard if the head, spouse or sole member is a person with disabilities who has gone to work or increased his or her earnings after being largely unemployed for the previous year, while participating in an economic self-sufficiency or other job training program, or within six months of receiving certain benefits under the TANF or Welfare-to-Work programs. For a qualified household, all of the increased earnings are disregarded in determining rent for 12 months. In the second 12-month period, half of the rent increase otherwise due is phased in.

HUD has also invited the public to comment on whether this special two-year phased disregard of earnings in determining rent should apply to the project-based Section 8 program, and to families other than those with disabilities in the tenant-based Section 8 program. Because a family's rent obligation in the Section 8 programs is generally 30 percent of adjusted income, disregarding all of an individual's earnings for 12 months is a savings to the family of \$3 for every \$10 of earnings during that period; the second year of the disregard is a savings of half that amount. Protection against an immediate rent increase when earnings increase may encourage more families to work or make the initial expenses of work easier for them to bear. No research is available on the effect of the earnings disregard policies in the public housing program. Research in welfare programs has shown that generous earnings disregard policies do elicit greater employment, but the policies still entail additional costs.

Among the issues to consider in commenting on the question of whether the earnings disregard should be expanded to the Section 8 programs is what trade-offs may result and their relative value. The cost of expanding this earnings disregard policy to the Section 8 programs would be borne by the federal government, not the PHAs or owners. The cost of this policy change, however, may diminish the availability of funds to expand the number of families participating in the programs or to make other improvements in the programs.

Barbara Sard, Director of Housing Policy
Center on Budget and Policy Priorities
Local phone: 617-566-1154
Local fax: 617-232-2903

 - att1.htm

Honorable Dennis Hastert
Speaker of the House
of Representatives
Washington, DC 20515

Dear Mr. Speaker:

I am pleased to transmit three legislative proposals which would create earned income disregards for disabled families participating in HUD's rental assistance or rent supplement programs, or for families with a disabled member or members who are receiving assistance (other than voucher assistance) under section 8 of the United States Housing Act of 1937. These disregards would be similar to the disregard currently implemented for public housing tenants and found in section 3(d) of the United States Housing Act of 1937, except that the new disregards would apply only insofar as any increase in a family's earned income is attributable to the employment of the family member or members with disabilities.

These proposed changes are part of an Administration-wide effort to assist individuals with disabilities achieve employment. As the recent tenth anniversary of the Americans with Disabilities Act made so clear, we have come far in the past decade, but there is much more that we can do to recognize the value and abilities of all Americans. Enactment of these legislative proposals would be an important step in the right direction.

A section-by-section explanation accompanies this letter and sets forth more fully the contents of this proposed legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this legislation from the standpoint of the Administration's program.

I am sending a similar letter to the President of the Senate, Al Gore.

Sincerely,

Andrew Cuomo

Enclosures

h:\gll\2001-leg.pro\income-disregard-trans-house

Honorable Al Gore
President of the Senate
Washington, DC 20510

Dear Mr. President:

I am pleased to transmit three legislative proposals which would create earned income disregards for disabled families participating in HUD's rental assistance or rent supplement programs, or for families with a disabled member or members who are receiving assistance (other than voucher assistance) under section 8 of the United States Housing Act of 1937. These disregards would be similar to the disregard currently implemented for public housing tenants and found in section 3(d) of the United States Housing Act of 1937, except that the new disregards would apply only insofar as any increase in a family's earned income is attributable to the employment of the family member or members with disabilities.

These proposed changes are part of an Administration-wide effort to assist individuals with disabilities achieve employment. As the recent tenth anniversary of the Americans with Disabilities Act made so clear, we have come far in the past decade, but there is much more that we can do to recognize the value and abilities of all Americans. Enactment of these legislative proposals would be an important step in the right direction.

A section-by-section explanation accompanies this letter and sets forth more fully the contents of this proposed legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this legislation from the standpoint of the Administration's program.

I am sending a similar letter to the Speaker of the House of Representatives, Dennis Hastert.

Sincerely,

Andrew Cuomo

Enclosures

h:\gll\2001-leg.pro\income-disregard-trans-senate

7/24/00 3:10 p.m.
Calculation of Income
Draft Legislation

**EARNED INCOME DISREGARD
FOR THE RENTAL ASSISTANCE PROGRAM**

Section ____ would amend section 236(f)(2) of the National Housing Act to create an earned income disregard similar to that found in section 3(d) of the United States Housing Act of 1937 which would be applicable to disabled families participating in the rental assistance program. The amendment would define "person with a disability" and "disabled family" in a manner consistent with section 811 of the Cranston-Gonzalez National Affordable Housing Act, and would apply only to the extent that the earned income of the family increases due to the employment of a family member with a disability. On a technical level, the amendment would also divide section 236(f)(2) into logical paragraphs.

In addition to making changes to the RAP program, this section would update definitional cross-references in sections 221(f) and 231(f) of the National Housing Act, regarding ❖handicapped person❖ and ❖handicapped family❖ respectively, so that these references refer to section 811 of the Cranston-Gonzalez National Affordable Housing Act instead of to section 202 of the Housing Act of 1959. The section 202 program formerly covered both elderly persons and persons with disabilities. Section 811 of the Cranston-Gonzalez National Affordable Housing Act carved out a separate program for disabled persons, which succeeded section 202 in this respect.

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7/24/00 3:00 p.m.
Calculation of Income
Draft Legislation

**EARNED INCOME DISREGARD
FOR THE RENT SUPPLEMENT PROGRAM**

Section ____ would amend section 101(e) of the Housing and Urban Development Act of 1965 to create an earned income disregard similar to that found in section 3(d) of the United States Housing Act of 1937 which would be applicable to disabled families participating in the rent supplement program. The amendment would define "person with a disability" and "disabled family" in a manner consistent with section 811 of the Cranston-Gonzalez National Affordable Housing Act, and would apply only to the extent that the earned income of the family increases due to the employment of a family member with disabilities.

h:\gll\2001-leg.pro\inc-d-rs.sec

7/24/00 10:00 a.m.
Calculation of Income
Draft Legislation

**EARNED INCOME DISREGARD
FOR SECTION 8 NON-VOUCHER ASSISTANCE**

Section ___ would amend section 3(d) of the United States Housing Act of 1937 to make the earned income disregard in that section applicable to families receiving section 8 non-voucher assistance whose members include a person or persons with disabilities. The disregard would apply only to the extent that the earned income of the family increases due to the employment of such person or persons with disabilities, and only after the Secretary issues any regulations necessary for implementation.

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FOR INTERNAL USE ONLY

QUESTIONS AND ANSWERS

Incentives for Employment

Q: What's new here?

A: The most significant change here is extending the earned income disregard, as it applies to individuals with disabilities, to HUD's Section 8 Housing Choice Voucher programs as well as to a few other programs, in addition to the public housing program to which it already applies. The rule also will make clear that certain deductions to adjusted annual income – including a \$400 mandatory deduction for any disabled family plus certain deductions to off-set medical expenses, reasonable attendant care and auxiliary apparatus expenses, and certain child care expenses – apply to all HUD housing assistance

Q: So the deductions are nothing new?

A: It is significant that for the first time in one single regulation, HUD will clarify that these important deductions apply across the board. This clarification re-emphasizes HUD's commitment to assisting individuals with disabilities reach their full potential.

Q: How much will this new regulation cost?

A: We believe the costs will be minimal. [HUD estimates that the first year cost of the new income disregard will be about \$21.4 million and about \$51.7 million per year after that.]

Q: How many people will this serve?

A: This change could serve as many as nearly 227,000 people [HUD estimates the maximum number of recipients to be 226,980]. That is the number eligible, so the actual number of recipients is likely to be lower, but that gives you the potential.

Q: Isn't this a pretty minimal benefit?

A: Not at all – this was, after all, the centerpiece of the changes in the recent sweeping public housing reform act that HUD is now implementing. Just as this was an important work incentive for residents of public housing, so too will it be for disabled recipients of other HUD assistance.

Q: Why don't you extend these benefits to all housing assistance recipients? Why just individuals with disabilities?

A: This new rule targets an issue of uniquely pressing concern – the employment of individuals with disability. The percentage of individuals with significant disabilities who are unemployed has been estimated at as high as 70 to 75%, a rate higher than any other comparable group, and it certainly makes sense to start with the most intractable problems before tackling others. However, providing work supports and incentives for welfare recipients and other low-income families is a high priority for this Administration, and we are exploring options for extending similar work incentives to all housing assistance recipients.

Q: But doesn't this just create an incentive for individuals to claim disability?

A: We certainly hope not. Any time you have a program that benefits individuals with disabilities, there is the risk that it will create a perverse incentive, but we have confidence in the ability of HUD to monitor its grantees to ensure that the program is not misused.

Q: When will these changes take effect?

A: We are currently developing a proposed rule, and the Administration must complete the ordinary rule-making process before these changes become final. They are slated to take effect in FY2001.

Q: Why don't these changes apply to all HUD programs?

A: HUD has examined its statutory authority and has extended these benefits, for individuals with disabilities, to those programs in which the Department has administrative authority to do so. For the remaining programs, the Administration will work with Congress to give HUD the necessary authority.

Q: But does the statutory authority have anything to do with these being disability-related benefits?

A: No. We are in the process of exploring options for extending these benefits to all low-income working families in assisted housing. However, this proposed rule responds specifically to one of the recommendations of the President's Task Force and will address the unique and pressing need to help more individuals with disabilities move into the workforce. Extending the disregards to a broader population could have greater cost implications that need to be considered.

Access Housing 2000

Q: How many people will this serve?

A: The proposed demonstration project begins with four hundred beneficiaries, but at full implementation it would ideally reach two thousand. The larger partnership will serve as many individuals as resources can be found, but will hopefully serve as a vital conduit for resources from a wide variety of public and private sources, including foundations.

Q: How will the disparate components of the demonstration project work together?

A: The idea at the core of the proposed demonstration project is that there are a variety of disparate resources that can work in conjunction to help facilitate the transition from institutional settings to community living for individuals with disabilities. The agencies involved will sit down together and also with the many other partners we hope to see involved in local coalitions to help this effort to work out the best mechanisms for getting all the resources possible to the recipients. Obviously, the agencies will have to work within their existing authority, but there are many creative ways that current resources may be targeted to produce the best results.

Q: When do you expect the demonstration program to be up and running?

A: There are many operational details to be worked out, but the partners are committed to taking the framework agreement announced today and bringing it to fruition as soon as possible.

Q: Who else would you like to see involved in this?

A: As many other government agencies and private entities as we can. Access Housing 2000 is about partnership and about focusing the attention of the nation on the pressing need to assist individuals with disabilities make the transition from institutional settings to community living.

Q: How much money is Robert Wood Johnson Foundation getting out of this?

A: No grant or contract funds have been awarded, and all funds will have to go through the necessary process.

Q: Aren't you turning people out in to communities that may not be ready for them?

A: It is important with any program like this to prepare not just the individual but also the community for the transition out of institutional care, and we hope that some of the targeted outreach does just that. Services that may be provided in conjunction with the housing vouchers include counseling to assure the successful transition into community living.

Q: Haven't you had a hard time obligating your Section 8 vouchers – why delay any further?

A: We have not had any difficulties obligating vouchers designated for individuals with disabilities, and we don't anticipate that this proposed demonstration project would create any.

Q: Where are these vouchers coming from?

A: The initial group of 400 vouchers is from a FY2000 congressional appropriation specifically targeted for non-elderly persons with disabilities. Appropriations will need to be identified for additional vouchers in future years

Q: Will individuals in institutions get to jump the waiting lines at public housing authorities where other, equally worthy people aren't being served?

A: The 400 vouchers is a new commitment of funds and has been specifically designated by Congress for non-elderly persons with disabilities.

Home Ownership Letter

Q: Is this creating an unnecessary risk for the FHA insurance fund?

A: No, the mortgagee letter simply points out credit factors and considerations that are unique to persons with disabilities, but that are well within FHA's overall structure of sound underwriting principles. FHA/HUD knows from years of experience that many persons with disabilities have sufficient resources, capacity and determination to be successfully home owners.

Q: When will the letter go out?

A: We anticipate that the letter will be sent out this week.

Q: How many FHA mortgagees will receive the letter?

A: The Mortgagee Letter will go all of FHA's approximately 10,000 lender partners.

Q: What kind of flexibility do they have to actually make home ownership a reality for individuals with disabilities?

A: FHA leads the market in permitting flexible underwriting on very low down payment loans. Through this Mortgagee Letter, FHA is formally re-emphasizing existing underwriting guidelines that encourage our lender partners to fairly account for tax free disability income from state and federal sources and consider compensating factors in the case of borrowers who do not meet FHA's prescribed debt to income standards. This is another example of how FHA serves borrowers who have the capacity to be successful homeowners, but who are not well served by the conventional market, due to modest blemishes on their credit record. FHA is more tolerant of modest credit problems in the past, and this Mortgagee Letter expressly demonstrates how lenders can fairly and accurately assess the credit worthiness of persons with disabilities.



"Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>
07/25/2000 12:21:37 PM

Record Type: Record

To: Andrea Kane/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Re: HUD income deductions/disregards

Yes, we sent to Lisa yesterday. Basically, the number for the reg is nearly 227,000.

Please see attached for details.

(See attached file: eligible persons income disregard.doc)

NB: This document tracks the number eligible (both for the reg change and for the proposed legislative change) and therefore is the largest number. The number actually availing themselves of this benefit may be less, and is a figure that is out of our control.

Andrea_Kane@opd.eop.gov on 07/25/2000 11:54:57 AM

To: Nestor M. Davidson/OGC/HHQ/HUD@HUD
cc: Margy_Waller@opd.eop.gov, J._Eric_Gould@opd.eop.gov,
Lisa_M._Brown@ovp.eop.gov, Andrea_E._Jacobson@omb.eop.gov,
Francis_S._Redburn@omb.eop.gov
Subject: Re: HUD income deductions/disregards

did you get this data on # of people who would potentially benefit from disregard change?

(Embedded
image moved "Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>
to file: 07/23/2000 09:33:30 PM
PIC03142.PCX)

Record Type: Record

To: Andrea Kane/OPD/EOP

cc: Margy Waller/OPD/EOP, J. Eric Gould/OPD/EOP, Lisa M. Brown/OVP/EOP
Subject: Re: HUD income deductions/disregards

I've request the data -- I'll get you what we have as soon as I get it in the morning.

Andrea_Kane@opd.eop.gov on 07/23/2000 09:11:12 PM
To: Nestor M. Davidson/OGC/HHQ/HUD@HUD
cc: Margy_Waller@opd.eop.gov, J._Eric_Gould@opd.eop.gov,
Lisa_M._Brown@ovp.eop.gov
Subject: Re: HUD income deductions/disregards

It would be really helpful to get the actual # of people that could benefit from the disregard changes based on these assumptions. I could probably figure it out, but I'd really prefer if someone there could do the math. The assumptions focus on the dollar impact, not the # of people. Just an outside estimate for 1st year and outyears would be very helpful, so we could say something like "These changes could provide work incentives for up to xx people with disabilities." Based on the assumptions, it looks like the impact is mostly on reducing rent for people already in the program as opposed to making more people eligible, but maybe I'm missing something.





Eric/Lisa, I assume we'll want to have such a number for our Q&As.

(Embedded
image moved "Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>
to file: 07/23/2000 08:44:56 PM
PIC14476.PCX)

Record Type: Record

To: Andrea Kane/OPD/EOP
cc:
Subject: Re: HUD income deductions/disregards

Here's the budget breakdown document we sent to OMB. The deductions clarification will have no budgetary impact.
Thanks.
(See attached file: Incomedisregard.doc)

-  - Incomedisregard.doc
-  - PIC14476.PCX
-  - PIC03142.PCX
-  - eligible persons income disregard.doc

Message Copied To:

Margy Waller/OPD/EOP
J. Eric Gould/OPD/EOP
Lisa M. Brown/OVP/EOP
Andrea E. Jacobson/OMB/EOP
Francis S. Redburn/OMB/EOP



Andrea E. Jacobson

07/24/2000 04:20:06 PM

Record Type: Record

To: Margy Waller/OPD/EOP@EOP, Andrea Kane/OPD/EOP@EOP, James F. Jordan/OMB/EOP@EOP, Francis S. Redburn/OMB/EOP@EOP


cc:

Subject: Re: OMB comments--Earned Income Disregard Rule

----- Forwarded by Andrea E. Jacobson/OMB/EOP on 07/24/2000 04:30 PM -----

Joseph F. Lackey Jr.



 07/24/2000 04:18:55 PM

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP

cc:

Subject: Re: OMB comments--Earned Income Disregard Rule

----- Forwarded by Joseph F. Lackey Jr./OMB/EOP on 07/24/2000 04:21 PM -----



"Camille E. Acevedo" <Camille_E._Acevedo@HUD.GOV>

07/24/2000 02:05:55 PM

Record Type: Record

To: Joseph F. Lackey Jr./OMB/EOP

cc: "Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>

Subject: Re: OMB comments--Earned Income Disregard Rule

Joe,

Here is more information responding to question #2. Camille

**

(2) What statutory authority does HUD have to apply the earned income disregard to HOME, HOPWA, Supportive Housing for the Homeless, and Section 8 (tenant-based)?

The HOME program (per section 104(9) and(10) of the CHAS law) states that the varying median income definitions of low- and very-low income families shall be "as determined by the Secretary."

HOPWA does the same. Section 859(a) does cite section 8 to the end that rental assistance "shall be provided to the extent practicable in the manner provided for under section 8" (emphasis added). This provision refers to rental assistance, not income, and vests in the administrator discretion whether it would be practicable to follow the temporary ineligibility of section 8 income disregards.

The Supportive Housing for the Homeless statute contains no income limitations. Section 426(d) of McKinney states that assisted tenants "may be required to pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 3(a) of the" USHAct of 1937. HUD can amend the regulations to signal the use by the provider of disregards in establishing its occupancy charges.

Not all "section 8 (tenant-based)" assistance falls within the permitted disregards. Section 8 vouchers, provided under section 8(o), are not subject to the temporary ineligibility pending advance appropriation action per section 3(d)(4) of the 1937 Act. As section 3(d) does not cover section 8(o), the Secretary under his section 3(b)(4) authority to define "income" can provide for disregards in the voucher program (into which all certificates will eventually be merged in September 2001).

----- Forwarded by Camille E. Acevedo/OGC/HHQ/HUD on 07/24/2000
02:02 PM -----

From: Camille E. Acevedo on 07/24/2000 01:29 PM

To: Joseph_F._Lackey_Jr@omb.eop.gov @ MTA
cc: Nestor M. Davidson/OGC/HHQ/HUD@HUD
Subject: Re: OMB comments--Earned Income Disregard Rule (Document link:
Database 'Camille Acevedo', View '(\$Sent)')

Joe,

Please see responses below. Camille

Joseph_F._Lackey_Jr@omb.eop.gov on 07/24/2000 10:47:12 AM

To: Camille E. Acevedo/OGC/HHQ/HUD@HUD
cc:
Subject: OMB comments--Earned Income Disregard Rule

1) What is the rationale behind applying the earned income disregard to only the disabled assisted-housing population?

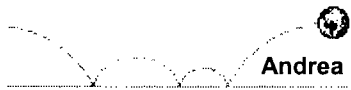
Estimates of unemployment for individuals with significant disabilities range as high as 75%, making this perhaps the disadvantaged group with the single highest unemployment rate. As part of an Administration-wide effort to examine avenues for opening up opportunities for employment for adults with disabilities, HUD felt that it was appropriate to begin with a target group that clearly has such a significant need.

2) What statutory authority does HUD have to apply the earned income disregard to HOME, HOPWA, Supportive Housing for the Homeless, and Section 8 (tenant-based)?

Program counsel can provide a more detailed response for these programs if you would like but the brief and simple answer is that nothing in the authorizing legislation for these programs prohibits application of earned income disregard.

3) We have seen cost estimates for \$15 million and \$21 million in the first year of implementation. Please explain the difference between the two estimates.

The \$15 million is for the Section 8 tenant based program. The \$21 million includes HOPWA, Homeless and HOME funding as well. These programs were added after the initial discussions over Section 8.



Andrea E. Jacobson

07/24/2000 06:09:13 PM

Record Type: Record

To: Lisa M. Brown/OVP/EOP@EOP, Andrea Kane/OPD/EOP@EOP, Margy Waller/OPD/EOP@EOP
cc:
Subject: FINAL VERSION OF ADA RULE (FR-4608)

Here's the update:

(1) The final version of the rule is attached. Once OMB officially clears the rule (that should be taking place as I type), HUD plans to transmit the rule to the Hill tomorrow.

(2) The letters or cover sheets for the legislative proposal will be circulated to the distribution list shortly. I'll email you an advance copy now.

----- Forwarded by Andrea E. Jacobson/OMB/EOP on 07/24/2000 06:15 PM -----



"Camille E. Acevedo" <Camille_E._Acevedo@HUD.GOV>

07/24/2000 04:17:03 PM

Record Type: Record

To: Joseph F. Lackey Jr./OMB/EOP, Andrea E. Jacobson/OMB/EOP
cc:
Subject: FINAL VERSION OF ADA RULE (FR-4608)

Joe, Andrea,

Here's the final version both in redline/strikeout and clean. Please don't hesitate to call if you have any questions. I should be at my desk the rest of the afternoon. Thanks very much for your help. I'll check out the legislative activity as you requested.

Camille

(See attached file: FR4608-REDLINE-JY24.doc)(See attached file: FR4608-CLEAN.DOC)



- FR4608-REDLINE-JY24.doc



- FR4608-CLEAN.DOC

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 92, 200, 236, 574, 582, 583, 891, 982

[Docket No. FR-4608-P-01]

RIN 2501-AC72

**Determining Adjusted Income in HUD Programs Serving
Persons with Disabilities: Requiring Mandatory
Deductions for Certain Expenses; and
Disallowance for Earned Income**

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's regulations in part 5, subpart F, to include additional HUD programs in the list of programs that must make certain deductions in calculating a family's adjusted income. These deductions primarily address expenses related to a person's disability, for example medical expenses or attendant care expenses. The purpose of this amendment is to expand the benefits of these deductions to persons with disabilities served by HUD programs not currently covered by part 5, subpart F. Second, the proposed rule would add a new regulatory section to part 5 to require for some but not all of these same programs the disallowance of increases in income as a result of earnings by persons with disabilities. HUD believes that making these deductions and disallowance available to persons with disabilities through as many HUD programs as possible will assist persons with disabilities in obtaining and retaining employment, which is an important step toward economic self-sufficiency.

DATES: Comments Due Date: [Insert date 60 days from publication.]

ADDRESSES: Interested persons are invited to submit comments on this rule to

the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. Communications must refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. - 5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: For the HOME Investment Partnerships Program, contact Mary Kolesar, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410, telephone (202) 708-2470.

For the Housing Choice Voucher Program, contact Patricia Arnaudo, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410, telephone (202) 708-0744.

For the Housing Opportunities for Persons with AIDS Program, contact David Vos, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410, telephone (202) 708-1934.

For the Rent Supplement Program, contact, Willie Spearmon, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-3000.

For the Rental Assistance Payment (RAP) Program, contact Willie Spearmon, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-3000.

For the Section 202 Supportive Housing Program for the Elderly (including Section 202 Direct Loans for Housing the Elderly and Persons with Disabilities), contact Aretha Williams, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2866.

For the Section 811 Supportive Housing Program for Persons with Disabilities, contact Gail Williamson, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2866.

For the Shelter Plus Care Program, contact Jean Whaley, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410, telephone (202)

708-2140.

For the Supportive Housing Program (McKinney Act Homeless Assistance), contact Clifford Taffet, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410, telephone (202) 708-1234.

For all of the above telephone numbers, persons with hearing or speech-impairments may call 1-800-877-8339 (Federal Information Relay Service TTY). (Other than the "800" number, the telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. This Rule - Background and Proposed Amendments

HUD's FY 1999 Appropriations Act, which included the Quality Housing and Work Responsibility Act of 1998 (as title V of the FY 1999 HUD Appropriations Act) (the entire FY 1999 Appropriations Act, including title V, is Pub.L. 105-276, approved October 21, 1998, and frequently referred to as the "Public Housing Reform Act") enacted landmark measures in HUD programs, including many of the reforms sought by Secretary Cuomo, such as transforming public housing, creating additional housing assistance vouchers, merging the Section 8 certificate and voucher programs, and enabling more families to obtain FHA mortgages to become homeowners. Since the Public Housing Reform Act became law, HUD has published many rules and notices implementing the important changes in HUD programs required by the Act. While the majority of these changes are applicable to HUD's public housing and Section 8 programs, HUD has been able to extend, administratively at times, the benefits of some of these landmark measures to HUD programs not specifically identified by the statute. The particular focus of this rule is to extend the benefits of (1) deducting certain expenses as provided by the Public Housing Reform Act (currently applicable only to public housing and Section 8 housing (tenant-based and

project-based)); and (2) disregarding certain increases in earned income as provided by the Public Housing Reform Act (currently applicable only to public housing) to persons with disabilities served by certain other HUD programs. These deductions and the disregard of earned income constitute an important step in helping persons with disabilities find employment and retain employment.

HUD is aware that the lack of accessible, affordable housing continues to be a barrier to the ability of persons with disabilities to take advantage of economic opportunities in many communities across the country. The availability of accessible, affordable housing and the location of that housing can be the key to persons with disabilities in obtaining employment. Estimates concerning unemployment indicate that the unemployment rate among persons with significant disabilities is in the range of 70% to 75, among the highest of disadvantaged groups in the nation. To minimize the barriers to accessible, affordable housing, HUD is continually examining its programs to determine ways, through administrative initiatives or legislative or regulatory changes, that may assist in breaking down these barriers. HUD has identified two changes that it can make through rulemaking that HUD believes will encourage and facilitate employment of persons with disabilities, and may be implemented administratively in several HUD programs.

The first amendment proposed by this rule involves extending the applicability of certain mandatory deductions in calculating family adjusted income to other HUD programs that serve persons with disabilities. Section 508 of the Public Housing Reform Act amended section 3(b) of the U.S. Housing Act of 1937 (1937 Act) to change the calculation of adjusted income by adding a number of mandatory deductions to determine adjusted income. These mandatory deductions include disability-related expenses, including medical expenses and attendant care expenses, as well as child-care expenses, and other expenses that would benefit persons with disabilities. These

deductions, currently applicable to public housing and Section 8 housing (tenant-based and project-based), can be found in 24 CFR 5.611(a) (see the March 29, 2000, final rule at 65 FR 16717, first column; see also the definition of "responsible entity" in 24 CFR 5.100, which only covers public housing and Section 8 housing). Because several HUD non-public housing or Section 8 programs define "low-income" or "very low-income" persons or families by referencing the 1937 Act definitions, or provide for family income to be determined in accordance with the requirements of the 1937 Act, or both, HUD can apply the mandatory deductions in § 5.611(a) to several HUD programs. In fact, for many of the HUD programs included in this rule, these programs were able to apply the deductions listed in § 5.611 before the amendments made by the March 29, 2000 final rule. Therefore, it is appropriate and beneficial that these programs continue to be able to take advantage of these deductions. The March 29, 2000 final rule, however, did not address these programs. The March 29, 2000 final rule was limited to public housing and Section 8 tenant-based and project-based assistance. This rulemaking is issued to continue the applicability of these deductions to non-public housing and non-Section 8 housing programs. Although these deductions, because of the type of deductible expenses primarily benefit persons with disabilities, they are deductions that are eligible to all persons and families served by the programs listed above, not only persons or families with disabilities. Additionally, unless specifically provided in the program regulations amended by this rule, these deductions do not replace other deductions made available to persons with disabilities or to other persons or families as provided in the program regulations.

The HUD programs to which these deductions would be applicable are as follows: HOME Investment Partnerships Program (HOME Program), Housing Opportunities for Persons with AIDS (HOPWA), Rent Supplement Payments Program, Rental Assistance Payments Program, Section 202 Supportive Housing for the

Elderly, Section 202 Direct Loans for Housing the Elderly and Persons with Disabilities, Section 811 Supportive Housing for Persons with Disabilities, the Shelter Plus Care Program, and the Supportive Housing Program (McKinney Act Homeless Assistance). As the list of HUD programs reflects, many of the programs are not directed to providing assistance only to persons with disabilities, but persons with disabilities are included in the populations served by these programs.

With respect to the HOME Program, the regulations for this program currently provide (in 24 CFR 92.203) for the calculation of adjusted income to apply the deductions in 24 CFR 5.611. However, the applicability of these deductions can be clarified and HUD makes the clarification in this proposed rule by defining "responsible entity" in part 5 to include HOME Program participating jurisdictions.

With respect to the Rent Supplement Program, the regulations for this program, previously codified in 24 CFR part 215, were removed from title 24 of the Code of Regulations in April 1996 because the Rent Supplement Program is an expiring program. New assistance has not been provided under this program for many years, and HUD is closing out the program. HUD retained a "savings clause" however to ensure that the existing assistance provided by this program continues to be governed by the regulations in effect before their removal, and any subsequent amendments that HUD may make to these regulations. The savings clause is found in 24 CFR part 200, subpart W (see 24 CFR 200.1302). The amendments that HUD has made to the Rent Supplement regulations, since the 1996 removal, are found in 24 CFR 200.1303.

The Rental Assistance Payments Program is also an inactive program. The regulations for this program are codified in 24 CFR part 236, subpart D. Section 236.1 of these regulations provide notice that a moratorium against issuance of commitments to insure new mortgages under section 236 of the National Housing Act (NHA) was imposed January 5, 1973. Section 236(n) of the

NHA prohibits the insurance of mortgages under section 236 after November 30, 1983, except to permit the refinance of a mortgage insured under section 236, or to finance pursuant to section 236(j)(3), the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under section 236. As a result of the statutory provisions, HUD removed the majority of the regulations in 24 CFR part 236, subpart A, that provided the eligibility requirements for section 236 mortgage insurance. Subpart A of part 236 also includes a savings clause that advises that the regulations formerly in subpart A remain applicable to section 236 mortgages. Subpart A includes a regulatory section on annual income exclusions. HUD recognized that it was appropriate to retain a section on annual income exclusions because these exclusions may be revised by statute from time to time. For the Rental Assistance Payments Program, this proposed rule amends that section, which is § 236.3.

For both the Rent Supplement Program and the Rental Assistance Payments Program, this proposed rule also updates the definitions for certain terms, that appear in HUD regulations, including "disabled person" and "handicapped person," by replacing them with the term "person with disabilities which appears in section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013). For the definition of "handicapped families," certain Federal Housing Administration statutes cross-reference the definition of the term in section 202 of the Housing Act of 1959 which program, for purposes of providing housing for handicapped and/or disabled persons, was replaced by section 811. There is no longer a definition for "handicapped person" or "handicapped families" in the Section 202 or Section 811 statutes. Section 811, however, does have a definition of "person with disabilities" which is roughly synonymous with the former Section 202 terms.

The second amendment proposed by this rule is to expand the "earned income disregard" that is now applicable only to HUD's public housing program

to the calculation of income for persons with disabilities in four HUD programs that statutorily permit this expansion. HUD's public housing regulations provide in 24 CFR 960.255 for the exclusion from the calculation of annual income those increases in income that result from employment, participation in an economic self-sufficiency or other job training program, or assistance received from a state program for temporary assistance for needy families (TANF). The four HUD programs for which HUD has the authority to implement the earned income disregard for persons with disabilities are: HOME, the Housing Choice Voucher Program (which is the merged Section 8 certificate and voucher programs, the Section 8 tenant-based programs), HOPWA, and Supportive Housing Program (McKinney Act Homeless Assistance). In extending the earned-income disregard to these four HUD programs, HUD recognizes that the Public Housing Reform Act specifically directed the earned-income disregard to be applied to public housing. Application of the earned-income disregard to Section 8 assistance (tenant-based or project-based) was not explicitly addressed in the statute, as it was for public housing and as were other changes that explicitly addressed both public housing and Section 8 housing programs. HUD has determined, however, that the language of the statute provides the flexibility to extend the earned-income disregard to Section 8 tenant-based rental assistance programs. HUD is therefore extending the earned-income disregard to the four programs identified above that provide for Section 8 tenant-based rental assistance, but at this time, however, HUD is limiting the extension of the earned-income disregard, to persons with disabilities, the group served by HUD with the highest unemployment rate. HUD is analyzing the extension of the earned-income disregard to all families served by HUD in these programs, and welcomes comment on this issue.

The specifics of the mandatory deductions to be made are found in § 5.611 of this proposed rule, and for the earned income disregard in new § 5.617 that is added by this proposed rule. The March 29, 2000 final rule

removed the previous version of § 5.617, captioned "Reexamination and verification" which addressed income reexamination and verification. With the removal of this regulatory section, HUD is using § 5.617 to address disregard of earned income for persons with disabilities. In addition to these amendments, HUD amends § 5.601 of subpart F to include reference to the HUD programs to which applicability of the mandatory deductions and earned income disregard is being proposed by this rule. HUD amends the definitions in § 5.603 to include a definition of "responsible entity" to cover the entities that have responsibility for administering the HUD program to be referenced in § 5.601. HUD also makes conforming amendments to the regulations that govern these programs (e.g., the regulations in parts 200, 236, 574, etc.) to provide a cross-reference to the amended and, if applicable, the new regulatory section in part 5, subpart F. By the time of issuance of the final rule, HUD may determine that additional conforming amendments must be made in the covered program regulations, and HUD will make these additional amendments at the final rule stage.

HUD believes that the regulatory changes proposed by this rule represent an important step forward in helping to remove financial barriers that make it difficult for persons with disabilities to obtain employment, and to keep employment once obtained. The hope is that the financial savings to a person with disability that this rule would provide presents an incentive to that person to continue working, or if not working, to seek employment. Additionally, HUD believes that not only are the changes beneficial to the persons with disabilities that are served by the HUD programs identified above, they are also beneficial to the owners and entities that administer the HUD assisted housing for these persons and families. These proposed amendments provide, to the extent permitted by statute, greater uniformity in determining annual income for HUD programs that serve persons with disabilities, and hopefully through this uniformity minimize the

administrative burden that results from the different requirements under different programs for persons and families in similar or identical circumstances.

II. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW, Washington, DC 20410.

Regulatory Planning and Review

The Office of Management and Budget has reviewed this proposed rule under Executive Order 12866 (captioned "Regulatory Planning and Review") and determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m.) at the Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500.

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule would not have a significant economic impact on a substantial number of small entities. This rule is limited to expanding

existing mandatory expense deductions and earned income disregard to the calculation of income for persons with disabilities in other HUD programs by which the program participants will benefit, and the owners of the housing assisted by these programs will benefit from the uniformity in the program administration this rule presents and the simplicity. Notwithstanding HUD's determination that this rule would not have a significant economic impact on a substantial number of small entities, HUD specifically invites comment regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this rule.

Executive Order 13132, Federalism

This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled "Federalism").

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or tribal governments or on the private sector.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs--housing and community development, Grant programs--Indians, Individuals with disabilities, Loan programs--housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 92

Administrative practice and procedure, Grant programs--housing and community development, Grant programs--Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs--housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 236

Grant programs--housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 574

AIDS, Community facilities, Disabled, Emergency shelter, Grant programs--health programs, Grant programs--housing and community development, Grant programs--social programs, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 582

Homeless, Rent subsidies, Reporting and recordkeeping requirements, Supportive housing programs--housing and community development, Supportive services.

24 CFR Part 583

Homeless, Rent subsidies, Reporting and recordkeeping requirements,

Supportive housing programs--housing and community development, Supportive services.

24 CFR Part 882

Grant programs--housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 891

Aged, Capital advance programs, Civil rights, Grant programs--housing and community development, Individuals with disabilities, Loan programs--housing and community development, Low and moderate income housing, Mental health programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 982

Grant programs--Housing and community development, Housing, Rent subsidies.

Accordingly, HUD proposes to amend parts 5, 200, 236, 574, 582, 583, 882, 891 and 982 of title 24 of the Code of Federal Regulations as follows:

PART 5--GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. The heading for subpart F is revised to read as follows:

Subpart F -- Section 8 and Public Housing, and Other HUD Assisted Housing Serving Persons with Disabilities: Family Income and Family Payment; Occupancy Requirements for Section 8 Project-Based Assistance

3. Section 5.601 is amended to read as follows:

§ 5.601 Purpose and applicability.

This subpart states HUD requirements on the following subjects:

(a) Determining annual and adjusted income of families who apply for or receive assistance in the Section 8 (tenant-based and project-based) and public housing programs;

(b) Determining payments by and utility reimbursements to families assisted in these programs;

(c) Additional occupancy requirements that apply to the Section 8 project-based assistance programs. These additional requirements concern:

(1) Income-eligibility and income-targeting when a Section 8 owner admits families to a Section 8 project or unit;

(2) Owner selection preferences;

(3) Owner reexamination of family income and composition.

(d) Determining adjusted income, as provided in § 5.611(a) and (b), for families who apply for or receive assistance under the following programs: HOME Investment Partnerships Program (24 CFR part 92); Rent Supplement Payments Program (24 CFR part 200, subpart W); Rental Assistance Payments Program (24 CFR part 236, subpart D); Housing Opportunities for Persons with AIDS (24 CFR part 574); Shelter Plus Care Program (24 CFR part 582); Supportive Housing Program (McKinney Act Homeless Assistance) (24 CFR part 583); ; Section 202 Supportive Housing Program for the Elderly (24 CFR 891, subpart B); Section 202 Direct Loans for Housing the Elderly and Persons with Disabilities (24 CFR part 891, subpart E) and the Section 811 Supportive Housing for Persons with Disabilities (24 CFR part 891, subpart C). Unless specified in the regulations for each of the programs listed in paragraph (d) of this section or in another regulatory section of this part 5, subpart F, the regulations in part 5, subpart F, generally are not applicable to these programs.

(e) Determining earned income disregard for persons with disabilities, as provided in § 5.617, for the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (McKinney Act Homeless Assistance) (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

4. In § 5.603, paragraph (a)(1) is amended and a new definition of "responsible entity" is added to read as follows:

§ 5.603 Definitions.

* * * * *

(a) Terms found elsewhere in part 5.

(1) Subpart A. The terms 1937 Act, elderly person, public housing, public housing agency (PHA), responsible entity and Section 8 are defined in § 5.100.

* * *

Responsible entity. For § 5.611, in addition to the definition of "responsible entity" in § 5.100, and for § 5.617, in addition to only that part of the definition of "responsible entity" in § 5.100 which addresses the Section 8 program covered by § 5.617 (public housing is not covered by § 5.617), "responsible entity" means:

(1) For the HOME Investment Partnerships Program, the participating jurisdiction, as defined in 24 CFR 92.2;

(2) For the Rent Supplement Payments Program, the owner of the multifamily project;

(3) For the Rental Assistance Payments Program, the owner of the Section 236 project;

(4) For the Housing Opportunities for Persons with AIDS (HOPWA) program, the applicable "State" or "unit of general local government" or

"nonprofit organization" as these terms are defined in 24 CFR 574.3, that administers the HOPWA Program;

(5) For the Shelter Plus Care Program, the "Recipient" as defined in 24 CFR 582.5;

(6) For the Supportive Housing Program, the "recipient" as defined in 24 CFR 583.5;

(7) For the Section 202 Supportive Housing Program for the Elderly, the "Owner" as defined in 24 CFR 891.205, and for Section 202 Direct Loans Housing (the Elderly and Persons with Disabilities), the "Borrower" as defined in 24 CFR 891.505; and

(8) For the Section 811 Supportive Housing Program for Persons with Disabilities, the "owner" as defined in 24 CFR 891.305.

* * * * *

5. Revise § 5.611 to read as follows:

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the responsible entity, defined in § 5.100 and § 5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) Mandatory deductions. In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

(1) \$480 for each dependent;

(2) \$400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus

expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(b) Additional deductions. (1) For public housing, a PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions.

(2) For the HUD programs listed in § 5.601(d), the responsible entity shall calculate such other deductions as required and permitted by the applicable program regulations.

6. A new § 5.617 is added to read as follows:

**§ 5.617 Self-sufficiency incentives for persons with disabilities --
Disallowance of increase in annual income.**

(a) The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum

wage.

Qualified family. A disabled family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section:

(i) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance -- provided that the total amount over a six-month period is at least \$500.

(c) Disallowance of increase in annual income.

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified

family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

PART 92 -- HOME INVESTMENT PARTNERSHIPS PROGRAM

7. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701-12839.

8. In § 92.203, a new paragraph (d)(3) is added to read as follows:

§ 92.203 Income determinations.

* * * * *

(d)(3) The participating jurisdiction must follow the requirements in § 5.617 when making subsequent income determinations of persons with disabilities who are tenants in HOME-assisted rental housing or who receive tenant-based rental assistance.

PART 200 -- INTRODUCTION TO FHA PROGRAMS

9. The authority citation for part 200 continues to read as follows:

Authority. 12 U.S.C. 1701-1715z-18; 42 U.S.C. 3535(d).

10. Section 200.1303 is revised to read as follows;

§ 200.1303 Annual income exclusions for the Rent Supplement Program.

(a) The exclusions to annual income described in 24 CFR 5.609(c) apply to those rent supplement contracts governed by the regulations at 24 CFR part 215 in effect immediately before May 1, 1996 (contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219), in lieu of the annual income exclusions described in 24 CFR 215.21(c) (contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219)

(b) The mandatory deductions described in 24 CFR 5.611(a) also apply to the rent supplement contracts described in paragraph (a) of this section in lieu of the deductions provided in the definition of "adjusted income" in 24 CFR 215.1 (as contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219).

(c) The definition of "persons with disabilities" in paragraph (c) of this section replaces the terms "disabled person" and "handicapped person" used in the regulations in 24 CFR part 215, subpart A (as contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219). Person with disabilities,

as used in this part, has the same meaning as provided in 24 CFR 891.305.

PART 236 -- MORTGAGE INSURANCE AND INTEREST REDUCTION

PAYMENT FOR RENTAL PROJECTS

11. The authority citation for part 236 continues to read as follows:

Authority. 12 U.S.C. 1701-1715z-1; 42 U.S.C. 3535(d).

Subpart D -- Rental Assistance Payments

12. Section 236.710 is revised to read as follows;

§ 236.710 Qualified tenant.

(a) The benefits of rental assistance payments are available only to an individual or a family who is renting a dwelling unit in a project that is subject to a contract entered into under the requirements of this subpart or who is occupying such a dwelling unit as a cooperative member. To qualify for the benefits of rental assistance payments, the individual or family must satisfy the definition of Qualified Tenant found in § 236.2 of subpart A (contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499).

(b) To receive rental assistance under this subpart, the income or the individual or family must be determined to be too low to permit the individual or family to pay the approved Gross Rent with 30 percent of the individual's or family's Adjusted Monthly Income, as defined in § 236.2 of subpart A (contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499). Determination of the Adjusted Monthly Income must include the deductions required for adjusted income in 24 CFR 5.611(a) in lieu of the deductions provided in the definition of "adjusted income" in 24 CFR 236.2 (contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499)..

(c) For requirements concerning the disclosure and certification of Social Security Numbers, see 24 CFR part 5, subpart B. For requirements

regarding the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, see 24 CFR part 5, subpart B. For restrictions on financial assistance to noncitizens with ineligible immigration status, see 24 CFR part 5, subpart E.

(d) The definition of "persons with disabilities" in paragraph (d) of this section replaces the terms "disabled person" and "handicapped person" used in the regulations in 24 CFR part 236, subpart A (contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499). Person with disabilities, as used in this part, has the same meaning as provided in 24 CFR 891.305.

PART 574 -- HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

13. The authority citation for part 574 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12901-12912.

14. Paragraph (d)(1) of § 574.310 is revised to read as follows:

§ 574.310 General standards for eligible housing activities.

* * * * *

(d) Resident rent payment. Except for persons in short-term supported housing, each person receiving rental assistance under this program or residing in any rental housing assisted under this program must pay as rent, including utilities, an amount which is the higher of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the age of the individual, medical expenses, size of family and child care expenses and are described in detail in 24 CFR 5.609). The calculation of the family's monthly adjusted income must include the expense deductions provided in 24 CFR 5.611(a), and for eligible persons, the calculation of monthly adjusted income also must include the disallowance of earned income as provided in 24 CFR 5.617, if applicable;

(2) 10 percent of the family's monthly gross income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payment that is designated for housing costs.

* * * * *

PART 582 -- SHELTER PLUS CARE

15. The authority citation for part 582 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11403-11407b.

16. Section 582.310 is revised to read as follows:

§ 582.310 Resident rent.

(a) Amount of rent. Each participant must pay rent in accordance with section 3(a)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(a)(1)), except that in determining the rent of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act, the gross income of this person is the same as if the person were being assisted under title XVI of the Social Security Act.

(b) Calculating income. (1) Income of participants must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a).

(2) Recipients must examine a participant's income initially, and at least annually thereafter, to determine the amount of rent payable by the participant. Adjustments to a participant's rental payment must be made as necessary.

(3) As a condition of participation in the program, each participant must agree to supply the information or documentation necessary to verify the

participant's income. Participants must provide the recipient information at any time regarding changes in income or other circumstances that may result in changes to a participant's rental payment.

PART 583 -- SUPPORTIVE HOUSING PROGRAM

17. The authority citation for part 583 continues to read as follows:

Authority citation: 42 U.S.C. 3535(d) and 11389.

18. In § 583.315, paragraph (a) is revised to read as follows:

§ 583.315 Resident rent.

(a) Calculation of resident rent. Each resident of supportive housing may be required to pay as rent an amount determined by the recipient which may not exceed the highest of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses and child care expenses) The calculation of the family's monthly adjusted income must include the expense deductions provided in 24 CFR 5.611(a), and for persons with disabilities, the calculation of the family's monthly adjusted income also must include the disallowance of earned income as provided in 24 CFR 5.617, if applicable;

(2) 10 percent of the family's monthly gross income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payment that is designated for housing costs.

* * * * *

PART 891 -- SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

19. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q, 42 U.S.C. 1437f, 3535(d) and 8013.

20. In § 891.105, the definitions of Annual Income, Total Tenant Payment, and Utility Allowance are revised as follows:

§ 891.105 Definitions.

* * * * *

Annual income as defined in part 5, subpart F, of this chapter. In the case of an individual residing in an intermediate care facility for the developmentally disabled that is assisted under title XIX of the Social Security Act and this part, the annual income of the individual shall exclude protected personal income as provided under that Act. For purposes of determining the total tenant payment, the income of such individuals shall be imputed to be the amount that the household would receive if assisted under title XVI of the Social Security Act.

* * * * *

Total tenant payment means the monthly amount defined in, and determined in accordance with part 5, subpart F, of this chapter.

Utility allowance is defined in part 5, subpart F, of this chapter and is determined or approved by HUD.

21. In § 891.520, the definitions of Gross Rent, Tenant Rent, Total Tenant Payment, Utility Allowance, and Utility Reimbursement are revised to read as follows:

§ 891.520 Definitions applicable to 202/8 Projects.

* * * * *

Gross rent is defined in part 5, subpart F, of this chapter.

* * * * *

Tenant rent means the monthly amount defined in, and determined in accordance with part 5, subpart F, of this chapter.

Total tenant payment means the monthly amount defined in, and determined in accordance with part 5, subpart F, of this chapter.

Utility allowance is defined in part 5, subpart F, of this chapter and is determined or approved by HUD.

Utility reimbursement is defined in part 5, subpart F, of this chapter.

PART 982 -- SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

22. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

23. In § 982.201, paragraph (b)(2) is revised to read as follows:

§ 982.201 Eligibility and targeting.

* * * * *

(b) * * *

(3) The annual income (gross income) of an applicant family is used both for determination of income-eligibility under paragraph (b)(1) of this section and for targeting under paragraph (b)(2)(i). In determining annual income of an applicant family which includes persons with disabilities, the determination must include the disallowance of increase in annual income as provided in 24 CFR 5.617, if applicable.

* * * * *

Dated: _____

Andrew Cuomo, Secretary

7/24

Andrea Drobson -

- Steve talking to Michael now - ok

- the costs are rendering errors on the size -

- ^{rule} can probably be cleared in next 1-2 days

- legisl will take a little more time - LRD needs more info.

INCOME DISREGARD CALCULATION

Estimation of cost per unit for persons newly receiving the disregard:

- .13 proportion of certificates and vouchers used by disabled
- .78 proportion of the above who are eligible at the initiation of the program:
 - .11 are ineligible because they are already working; .11 are ineligible because they have not been served by Section 8 for at least 12 months
- .145 rate of return to work among unemployed HUD-assisted disabled in present environment:
 - we have no good estimate of this parameter. Project Network control group worked on average 3.5 months over 2 years following random assignment. We use 3.5/24 as source of parameter
- \$4000 increase in income if employed:
 - Average income in 1996 for disabled employed in certs and vouchers was about \$5000. We assume \$1000 loss in unearned income from other sources accompanies \$5000 increase in earnings.
- 1.09 inflation from 1996
- .3 proportion of income that must be contributed to rent

Basic Formula for all calculations

% Disabled Units .78* .145* \$4000* 1.09* .3* = cost per unit

Example Calculation

Outlay estimation for FY 2001 for Section 8 Tenant based

$.13 \times .78 \times .145 \times \$4000 \times 1.09 \times .3 = \$ 19.23$ per unit

$\$19.23$ per unit * 1.6 million unit* = \$30.8 million

Normal .5 lag assumption on outlays implies **\$15.4 million first year outlays**

	<u>Costs (\$)</u>	<u>Disabled Units</u>	<u>Sources of unit data (FY 2001)</u>
<u>Implemented by rule:</u>			
Section 8 Tenant based	15.4 mil	13%	PD&R/MTCS
AIDS	1.8 mil	25 K units	PD&R
Homeless	2.2mil	30 K units	PD&R
HOME	2.0 mil	28 K units	PD&R
<u>Need statutory language:</u>			
Section 8 Project based	11.4 mil	11%	FY 2001 Budget/Tracs
Rent Supplement (5%)	77K	5%	FY 2001 Budget/APP
Section 236 (5%)	824K	5%	FY 2000 Budget/APP
Section 202 (11%)	440K	11%	Hsg/GAO Report
Section 811 (100%)	2.0 mil	100%	Hsg/GAO Report
Shelter Plus Care	1.4 mil	19 K units	CPD
Mod. Rehab. SRO	N/A	0	CPD

Andrea Kane

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP, Francis S. Redburn/OMB/EOP@EOP, Margy Waller/OPD/EOP@EOP

cc: Joseph F. Lackey Jr./OMB/EOP@EOP, Lisa M. Brown/OVP/EOP@EOP, J. Eric Gould/OPD/EOP@EOP
Subject: HUD income deductions/disregards -- answers

Nestor Davidson worked with Camile Acevedo Sunday evening to get answers to most of my questions. See answers in blue below. OMB: apparently you'd already asked some questions and made some similar edits but we didn't know that. We also didn't realize you'd gotten assumptions/costs estimates from HUD, which they've just forward to me. How are you going to deal with the costs?

----- Forwarded by Andrea Kane/OPD/EOP on 07/23/2000 08:52 PM -----

Andrea Kane

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP, Francis S. Redburn/OMB/EOP@EOP, Margy Waller/OPD/EOP@EOP

cc:
Subject: HUD income deductions/disregards

sorry - one more that I thought I'd included in the first batch...

p. 26, line19-22: don't we need to add "based on employment of a person with a disability" after "income" on line 22? otherwise, this could be read to include increased income by a non-disabled family member (for example in a family with a disabled child and a non-disabled adult). OK - I'm tired. I had included this as #10 in first set. HUD thinks it's fine as is since this is cross-referencing 5.617 where it's spelled out specifically. I can live w/ it as is.

----- Forwarded by Andrea Kane/OPD/EOP on 07/23/2000 07:04 PM -----

Andrea Kane

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP, Francis S. Redburn/OMB/EOP@EOP, Margy Waller/OPD/EOP@EOP

cc:
Subject: HUD income deductions/disregards

one more edit:

p. 4, lines 4-5: sentence is awkward. Clarify as follows "disregarding certain increases in earned income, ~~now~~ currently applicable only to public housing, for ~~to~~ persons with disabilities served by certain other HUD programs.

----- Forwarded by Andrea Kane/OPD/EOP on 07/23/2000 06:52 PM -----

Andrea Kane

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP, Stephen W. Rusczyk/OMB/EOP@EOP, Margy Waller/OPD/EOP@EOP

cc: Lisa M. Brown/OVP/EOP@EOP, J. Eric Gould/OPD/EOP@EOP

Subject: HUD income deductions/disregards

Here are my questions about HUD's proposal. OMB: given the tight timelines, I'd like to share these questions with Nestor Davidson at HUD who is coordinating the various ADA-related deliverables and with Becky Ogle at the Task Force. If I don't hear back from you in the next little while, I'm going to go ahead and do that so HUD can start getting some responses together. While I don't think any of these questions are sufficient to stop the rule -- which makes a lot of sense in the context of work incentives for people with disabilities -- I do think we need to have good answers and justifications.

Legislative proposal

I'm trying to understand more about the 3 programs that would require a legislative change in order to apply the income disregards.

1. Does "section 8 non-voucher programs" mean Section 8 project-based rental assistance? YES It appears that Section 8 tenant-based assistance is included in the rule under the "Housing Choice Voucher Program (certificates and vouchers). YES. Distinction reflects the source of their authority to make the change administratively - doesn't extend to project based.
2. is the "rent supplement program" under section 101 the expiring program referred to in the rule (see p. 6, line 10-11)? YES If so, how important is it to extend the disregards to this program? Helps ensure comprehensive fix.
3. similarly, is the rental assistance program under section 236 the "inactive" program referred to on p. 6, line 19 of the rule? If so, how important is it to extend the disregards to this program? Same as #2.
4. Is the proposed legislative language regarding income disregards and phase-out basically identical to the existing statutory language for public housing? Yes
5. What is the Cranston-Gonzalez defn of person w/ a disability and disabled family? How disabled are people covered by these definitions? Are they generally people who are working or can work? Are they likely to be eligible for SSI? Section 811 defn is similar to the defn in 1937 Act, which references Section 223 of Soc Sec Act (see p. 19 line 17 of rule).

General questions

1. Is there any data on the number/incidence of persons with disabilities in the various housing programs being covered by the income disregard in the proposed rule and legislation? Even if precise estimates aren't available, we need to have some sense whether the changes will help a few people or a lot. See HUD assumptions sent to OMB earlier in the week.
2. How will sponsors of public housing reform act respond to proposal to amend that act to extending earned income disregards? Similarly, how will they react to extending disregards through regulations? Why did the act only apply disregards to public housing in the first place? How will people react to extending earned income disregards only to people with disabilities? What about other low-income working families, families moving from welfare to work, etc? Haven't vetted with Hill but don't anticipate negative response. Focus on QHWRA was on reforming public housing, so disregards were focused on PH residents. Rationale for focusing on people with disabilities is their very high incidence of unemployment, and the government wide effort to increase employment opportunities for this targeted population. HUD has authority to extend to other families, and this is something that could be explored in

another context, but would obviously be more costly.

Rule questions

1. Are there cost implications for the proposed rule? Yes - see estimates sent to OMB. \$21.4 M for FY 2001, about double that in out years.

2. p. 7. line 15 says disregard changes are 'statutorily permitted'. What is authority for extending the disregards to the other 4 program? Is this authority limited to people with disabilities? If not, what is HUD's rationale for only extending it to this group? While there is obvious merit in providing work incentives for people with disabilities, we're going to need to be able to justify why we're not doing this for other populations. Source of authority is 1937 Act - these 4 programs linked to that Act. QHWRA only addressed PH but lawyers don;t believe this precludes discretion for these other programs. Authority is NOT limited to people with disability.

3. What is the definition of 'disability' used for extending disregards to the other 4 programs? How do we address the real or perceived concern that making the disregards available only to people with disabilities creates an incentive for others to qualify as 'disabled'?

See #5 under legislative questions for defn. This is a risk anytime we provide different incentives for one group, but there is a long-standing defn of disability.

4. p. 4, line 14: what does "being compiled" mean? HUD should use whatever figures we typically cite on the unemployment rate of people with disabilities. Language suggested by Becky Ogle. Apparently it's a fairly soft estimate and this is the best way to describe it. I checked with Eric and he concurred.

5. p. 4, line 20-25: this sentence is confusing and needs to be rewritten. Does statutory changes refer to those made by public housing reform act? If so, the change for disregards only applies to public housing. will do

6. For both deductions and disregards, will the changes primarily have the result of reducing or stabilizing the rent payments of already eligible people with disabilities, or will it expand the number of people who are eligible? think its the latter but will check w/ program office

7. p. 7, line 19: change "state assistance" to "Temporary Assistance for Needy Families".

double checking with program office that this doesn't cause any problems.

8. Sec 5.611: While the purpose is to apply this existing definition of mandatory deductions, including disability-related costs, to more programs, will it also have the effect of changing mandatory deductions for non-disabled individuals in the other programs? No because its really just clarifying existing law & policy anyway.

9. p. 16, line 3: what is effect of expanding permissive deductions to all programs (by removing 'for public housing only')? Is this expansion only for people with disabilities? what is authority? Not creating new authority - just making sure this new provision doesn't override permissive exclusions that already exist in these programs.

10. p. 26, line 20: is it accurate just to say "which includes persons with disabilities"? Doesn't the increased income have to be earned by a person with disabilities too? yes, but since it cross-references more specific definition in 5.617 it's probably OK

10. Sec. 5.617: Again, what is authority/justification for limiting this expansion only to persons with disabilities? High level of unemployment, persisent problem, agency wide effort to address, much more expensive to address for the rest of the population. Should reference to "persons" on line 14 also include "families"? No - this is referencing the income of the individuals.

11. As I read this, the language in each non public-housing program makes clear that the disregards only apply to persons with disability, but since all of 5.617 only applies to persons with disabilities, shouldn't you also specify within the definitions of 'previously unemployed' and 'qualified family'? For example, p. 16, line 22 would read "a person with a disability who has earned...". Line 28 would read "member with a disability who was unemployed..." and so on on lines 31 and line 2 of p. 17. Already addressed in OMB's edits.



Andrea E. Jacobson

07/21/2000 05:28:31 PM

Record Type: Record

To: Andrea Kane/OPD/EOP@EOP
 cc: joseph f. lackey jr./omb/eop@eop, margy waller/opd/eop@eop, james f. jordan/omb/eop@eop, francis s. redburn/omb/eop@eop
 bcc:
 Subject: Re: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000

At this point in time, if you wanted it referenced all they could say in an MOU or in the ADA anniversary materials is that the final rule is under review at OMB and will be published shortly. (Joe, correct me if I'm wrong here.) We anticipate the rule will be cleared next week, but which particular day is still TBD.

In regards to the ADA anniversary, Jim and I are working with HUD and other VP/WH counterparts to decide what can be announced next week. We will have a better idea on Monday when we've had a chance to go through another reg they recently submitted as the top priority for the anniversary.

Andrea Kane

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great - I know y'all are swamped. Of course, HUD called me to protest striking the reference to the rule. The bottom line is, IF we wanted to let them reference it at all in the MOU, or if they want to reference it in ADA-anniversary related press paper for next week, what is the most they can actually legally say?
Andrea E. Jacobson



Andrea E. Jacobson

07/21/2000 01:56:57 PM

Record Type: Record

To: Andrea Kane/OPD/EOP@EOP

Andrea Kane

Annule
A covered
- more draft
HUD Ed May demand
disregards for
7/1/02
as fact

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP, Stephen W. Ruszczuk/OMB/EOP@EOP, Margy Waller/OPD/EOP@EOP
cc: Lisa M. Brown/OVP/EOP@EOP, J. Eric Gould/OPD/EOP@EOP
Subject: HUD income deductions/disregards

Here are my questions about HUD's proposal. OMB: given the tight timelines, I'd like to share these questions with Nestor Davidson at HUD who is coordinating the various ADA-related deliverables and with Becky Ogle at the Task Force. If I don't hear back from you in the next little while, I'm going to go ahead and do that so HUD can start getting some responses together. While I don't think any of these questions are sufficient to stop the rule -- which makes a lot of sense in the context of work incentives for people with disabilities -- I do think we need to have good answers and justifications.

Legislative proposal

I'm trying to understand more about the 3 programs that would require a legislative change in order to apply the income disregards.

1. Does "section 8 non-voucher programs" mean Section 8 project-based rental assistance? It appears that Section 8 tenant-based assistance is included in the rule under the "Housing Choice Voucher Program (certificates and vouchers). (Y)

- based on
income
where are
have
assistance?

2. is the "rent supplement program" under section 101 the expiring program referred to in the rule (see p. 6, line 10-11)? If so, how important is it to extend the disregards to this program? (Y) - 5,500
existing projects - want to extend them

3. similarly, is the rental assistance program under section 236 the "inactive" program referred to on p. 6, line 19 of the rule? If so, how important is it to extend the disregards to this program? *Same as #2*

4. Is the proposed legislative language regarding income disregards and phase-out basically identical to the existing statutory language for public housing? (Y)
hell yeah

5. What is the Cranston-Gonzalez defn of person w/ a disability and disabled family? How disabled are people covered by these definitions? Are they generally people who are working or can work? Are they likely to be eligible for SSI? *811 to 80 million to define in 1987 Act: Section 223 of Social Security Act - long term continued disability, & substantially impedes*

General questions

1. Is there any data on the number/incidence of persons with disabilities in the various housing programs being covered by the income disregard in the proposed rule and legislation? Even if precise estimates aren't available, we need to have some sense whether the changes will help a few people or a lot. *RAISE data sent to OIG's earlier in week. 13% of certificates/vouchers by*

used
disrupted.

2. How will sponsors of public housing reform act respond to proposal to amend that act to extending earned income disregards? Similarly, how will they react to extending disregards through regulations? Why did the act only apply disregards to public housing in the first place? How will people react to extending earned income disregards only to people with disabilities? What about other low-income working families, families moving from welfare to work, etc? *Best argument: Very targeted changes while there is a good -*

focus was on transfer
Plus

Rule questions

1. Are there cost implications for the proposed rule?
will email

1st yr in 2001
\$15.4 m Sec 8 know based
1.8 m HUD Part
7.2 m Homeless
2.0 m Home Programs
+ about double in all years
*address a
please have
first com.*

*To extend to other 97%
have authority for the one based, w/ big costs*

1937 Act -
These 4 programs
are linked to
37 Act
Thanks Anne
substantive

2. p. 7. line 15 says disregard changes are 'statutorily permitted'. What is authority for extending the disregards to the other 4 program? Is this authority limited to people with disabilities? If not, what is HUD's rationale for only extending it to this group? While there is obvious merit in providing work incentives for people with disabilities, we're going to need to be able to justify why we're not doing this for other populations.

3. What is the definition of 'disability' used for extending disregards to the other 4 programs? How do we address the real or perceived concern that making the disregards available only to people with disabilities creates an incentive for others to qualify as 'disabled'?

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Dev Beckley
- case
var

5. p. 4, line 20-25: this sentence is confusing and needs to be rewritten. Does statutory changes refer to those made by public housing reform act? If so, the change for disregards only applies to public housing.

6. For both deductions and disregards, will the changes primarily have the result of reducing or stabilizing the rent payments of already eligible people with disabilities, or will it expand the number of people who are eligible? *Think it's the latter - but checking program off*

7. p. 7, line 19: change "state assistance" to "Temporary Assistance for Needy Families". *annual program office*

8. Sec 5.611: While the purpose is to apply this existing definition of mandatory deductions, including disability-related costs, to more programs, will it also have the effect of changing mandatory deductions for non-disabled individuals in the other programs? *NO - just changing*

9. p. 16, line 3: what is effect of expanding permissive deductions to all programs (by removing 'for public housing only')? Is this expansion only for people with disabilities? what is authority? *Makes sense. The direct cost of using program. LNO/Dev*

10. p. 26, line 20: is it accurate just to say "which includes persons with disabilities"? Doesn't the increased income have to be earned by a person with disabilities too?

10. Sec. 5.617: Again, what is authority/justification for limiting this expansion only to persons with disabilities? Should reference to "persons" on line 14 also include "families"? *- in this case, shd be individuals.*

11. As I read this, the language in each non public-housing program makes clear that the disregards only apply to persons with disability, but since all of 5.617 only applies to persons with disabilities, shouldn't you also specify within the definitions of 'previously unemployed' and 'qualified family'? For example, p. 16, line 22 would read "a person with a disability who has earned...". Line 28 would read "member with a disability who was unemployed..." and so on on lines 31 and line 2 of p. 17.


made ability - per
OMB suggested
Also #12

42 USC 1437a


Andrea E. Jacobson


07/21/2000 05:40:34 PM

Record Type: Record


To: Margy Waller/OPD/EOP@EOP
cc: Andrea Kane/OPD/EOP@EOP, Joseph F. Lackey Jr./OMB/EOP@EOP, James F. Jordan/OMB/EOP@EOP
bcc:
Subject: Re: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000 

The reg is called, "Determining Adjusted Income in HUD Programs Serving Persons with Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income." The purpose of the rule, as it is currently written, is to: (1) make mandatory certain deductions when calculating a disabled household's adjusted income in some of HUD's assisted-housing programs (it's already being done in some, the regs just need to be cleaned up) and (2) apply the earned income disregard (currently only applied to public housing) to four other assisted-housing programs (HOME, Sec 8, HOPWA, and Supportive Housing for the Homeless).

Margy Waller

 **Margy Waller**
07/21/2000 05:32:37 PM
.....

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000 


What is the 'other reg'?
Andrea E. Jacobson


Andrea E. Jacobson

07/21/2000 05:28:31 PM

Record Type: Record


To: Andrea Kane/OPD/EOP@EOP

cc: joseph f. lackey jr./omb/eop@eop, margy waller/opd/eop@eop, james f. jordan/omb/eop@eop, francis s. redburn/omb/eop@eop
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Andrea Kane

Andrea Kane 


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Andrea E. Jacobson

 **Andrea E. Jacobson** 07/21/2000 01:56:57 PM

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bcc:
Subject: Re: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000 

Thanks... We'll look into this.

Andrea Kane


Andrea Kane 

Record Type: Record


To: Andrea E. Jacobson/OMB/EOP@EOP, Joseph F. Lackey Jr./OMB/EOP@EOP
cc: Margy Waller/OPD/EOP@EOP
Subject: Re: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000

not to drag you into a whole new thing, but just wanted to highlight our recommendation to strike reference to sec 8 homeownership rule in the MOU below. I assume you'll concur but if HUD pushes back, it would be helpful if you'd weigh in.

----- Forwarded by Andrea Kane/OPD/EOP on 07/21/2000 01:10 PM -----

Andrea Kane 

Record Type: Record

To: Lisa M. Brown/OVP/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc: Records Management@EOP
Subject: Re: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000 

Apparently HUD and HHS had already agreed to scale back the IDA piece, but the version below doesn't reflect that. I've talked to Becky and apparently she's talked to Bob Williams and they're OK with a scaled back IDA section. I'm having trouble opening the file so I can't do a redline/strikeout, but here are our changes:

P. 2, 1st graph: strike the clause about IDAs here since we want to downplay.

P. 3, A. Drop last sentence since this rule is still in clearance.

P. 3, B. Revise IDA paragraph as follows: HHS will work with other public and private agencies and foundations to identify strategies for enabling individuals with disabilities and their families to establish Individual Development Accounts. Under the Assets for Independence Act IDA demonstration program, these accounts are currently used to help a low-income individuals and families save for homeownership, post-secondary education, and capitalization of small business, and the President has proposed also allowing them to be used to save for a car needed to get or keep a job.

Lisa M. Brown

Lisa M. Brown



 07/21/2000 11:24:29 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Michelle M. Aronowitz/WHO/EOP@EOP
Subject: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000

HHS and HUD have been working on this MOU between the two of them and the Robert Wood Johnson Foundation to be signed TODAY and announced by the VP on Tuesday as part of the ADA celebration. It has come together very quickly in the past ten days. I am not sure who needs to review it -- Michelle Aronowitz and I are reviewing it right now and have some comments. Do you want/need to review it?

Does it need to be cleared by OMB? In particular, there is a reference to the homeownership rule on page 3 that WE want to make sure is accurate. THANKS!

If you get any comments to me, Michelle and I will communicate all our comments to HUD. Note that we need to get back to HUD as soon as possible.

----- Forwarded by Lisa M. Brown/OVP/EOP on 07/21/2000 11:13 AM -----



"Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>
07/21/2000 08:57:13 AM

Record Type: Record

To: Lisa M. Brown/OVP/EOP

cc:

Subject: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000

Let's chat about this soon, but please e-mail any comments. Thanks!

----- Forwarded by Nestor M. Davidson/OGC/HHQ/HUD on 07/21/2000
09:04 AM -----

From: Camille E. Acevedo on 07/20/2000 08:00 PM

To: Joan W. DeWitt/PDR/HHQ/HUD@HUD, Mark D. Shroder/PDR/HHQ/HUD@HUD, Robert A. Leonard/PDR/HHQ/HUD@HUD, Cheryl D. Kent/FHEO/HHQ/HUD@HUD, Gabriel Nemeth/FHEO/HHQ/HUD@HUD, Milton Turner/FHEO/HHQ/HUD@HUD, Maureen E. Walker/FHEO/HHQ/HUD@HUD, Pamela D. Walsh/FHEO/HHQ/HUD@HUD, Arlene L. Halfon/FHEO/HHQ/HUD@HUD, Gerald J. Benoit/PIH/HHQ/HUD@HUD, Susan M. Loritz/PIH/HUD/GOV@HUD, Michael S. Dennis/PIH/HHQ/HUD@HUD, HARRY L. CAREY/OGC/HHQ/HUD@HUD, Estelle D. Franklin/OGC/HHQ/HUD@HUD, EILEEN F. RAY/OGC/HHQ/HUD@HUD, ROBERT S. KENISON/OGC/HHQ/HUD@HUD, MICHAEL H. REARDON/OGC/HHQ/HUD@HUD, BETTY B. PARK/OGC/HHQ/HUD@HUD, STEVEN L. BALIS/OGC/HHQ/HUD@HUD, Frank J. Vaccarella/CIR/HHQ/HUD@HUD, Ronald Y. Spraker/ADMIN/HHQ/HUD@HUD

cc: Deborah Vincent/PIH/HHQ/HUD@HUD, Nestor M. Davidson/OGC/HHQ/HUD@HUD, Jeffrey M. Lubell/PDR/HHQ/HUD@HUD, Amy E. Wilkinson/FHEO/HHQ/HUD@HUD, Rod Solomon/PIH/HHQ/HUD@HUD, Nancy Kirshner-Rodriguez/CIR/HHQ/HUD@HUD, David M. Gibbons/CFO/HHQ/HUD@HUD

Subject: SECRETARY'S MOU WITH HHS AND ROBERT WOOD JOHNSON FOUNDATION ON ACCESS HOUSING 2000

Dear Colleagues,

As part of the Administration's upcoming initiative to highlight past, future and ongoing efforts and achievements to support persons with

disabilities, another feature of HUD's contribution is a memorandum to be entered into with HHS as well as the National Program Office on Self-Determination, a project of the Robert Wood Johnson Foundation to launch a public private partnership entitled Access Housing 2000. The attached draft MOU provides the details. The Secretary needs to sign this MOU no later than c.o.b. tomorrow.

The Secretary will be seeking the concurrences of your Assistant Secretaries and the General Counsel. We will be circulating the signature package for concurrence as early as possible tomorrow.

This is a very brief document, if you would review and advise of any comments to me no later than 11:00 am tomorrow, July 21, 2000, it is very much appreciated.

If there are others in your office who you think should review this, please forward to them. (I have included your Deputy Assistant Secretaries in this message so that they may review while staff is reviewing and if they believe that this should be immediately forwarded to your Assistant Secretary).

Thanks everyone for your assistance on this Secretary and Administration priority.

(See attached file: MOU 720b.doc)



- MOU 720b.doc

Message Sent To:

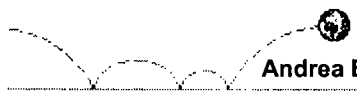
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Andrea E. Jacobson

07/21/2000 06:37:06 PM

Record Type: Record

To: Margy Waller/OPD/EOP@EOP, Andrea Kane/OPD/EOP@EOP
cc: Joseph F. Lackey Jr./OMB/EOP@EOP
Subject: HUD'S RULE TO PROMOTE EMPLOYMENT ON DISABILITY

We received the rule on Tuesday, however, there is a legislative proposal that arrived at OMB today that we still have not seen. Both of you are on the distribution list and will receive copies when our legislative review division sends it out (tonight I think).

By the way, we just had a call with Lisa Brown and Eric Gould. They told us that it is not entirely necessary that the rule be cleared before Tuesday's announcement, rather it's important that the VP and/or President can announce the impending publication of such a rule. We believe this shouldn't be a problem, but Steve hasn't had a chance to see the reg yet.

----- Forwarded by Andrea E. Jacobson/OMB/EOP on 07/21/2000 06:42 PM -----



"Camille E. Acevedo" <Camille_E._Acevedo@HUD.GOV>

07/18/2000 02:37:11 PM

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP
cc:
Subject: HUD'S RULE TO PROMOTE EMPLOYMENT ON DISABILITY

Andrea,

Thanks for letting me know that Steve Rusczyk will be involved in this rule. May I impose upon you to forward the attached draft to him. I am not sure that I have his name fully spelled out for email purposes.

This rule is being submitted officially today - it's a clean line-numbered copy. The attached draft is the same as the official submission content-wise, but I have prepared the regulatory text in redline/strikeout so that your office can see how existing regulatory text is being changed to address the policy in this rule. I know this helps your review for rules assigned to you and I didn't know if this would be helpful to Steve. If not, we can just delete.

Also, please note that we have added a new section 5.617 to part 5, subpart

F. New section 5.617 is based on

§960.255 (paragraphs (a) through (c)) in the public housing regulations (specifically added by the March 29, 2000 Admissions and Occupancy final rule). I have done this in redline/strikeout also so that you can see how 960.255(a) thru (c) was revised to be 5.617.

Thanks very much for passing this on to Steve. I know at one time I had his email address, but who knows what I did with it.

Camille

(See attached file: HUD-DISABILITY-RULE-JY18TH.DOC)



- HUD-DISABILITY-RULE-JY18TH.DOC

Marshall J. Rodgers

07/21/2000 06:59:44 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM MJR67 - - HOUSING & URBAN DEVELOPMENT Draft Bill on Earned Income Disregard for the Rental Assistance Program

This draft bill may be a part of a White House announcement on Tuesday marking the ten year anniversary of the ADA. The speaker letter and sectional analysis will be circulated under a separate cover.

The draft bill is attached in WordPerfect format:


HUD disc.wpd

  
hud rap.wpd hud rsp.wpd hud sect 8.wpd

----- Forwarded by Marshall J. Rodgers/OMB/EOP on 07/21/2000 06:49 PM -----
LRM ID: MJR67

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Friday, July 21, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Marshall J. Rodgers
PHONE: (202)395-7813 FAX: (202)395-6148
SUBJECT: **HOUSING & URBAN DEVELOPMENT Draft Bill on Earned Income Disregard for the Rental Assistance Program**

DEADLINE: **COB Tuesday, July 25, 2000**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: This draft bill may be a part of a White House announcement on Tuesday marking the ten year anniversary of the ADA. The speaker letter and sectional analysis will be circulated under a separate cover.

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71-National Council on Disability - Jeffrey T. Rosen - (202) 272-2004
100-President's Cttee on the Employment of People WDisabilities - John Lancaster - (202) 376-6200

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Ingrid M. Schroeder

FY 2001 - Number of people eligible for program

Implemented by rule:

Section 8 Tenant based	162, 240
AIDS	19,500
Homeless	23,400
HOME	21, 840

Need statutory language:

Section 8 Project based	120,465
Rent Supplement	814
Section 236	18,097
Section 202	4,639
Section 811	21,087
Shelter Plus Care	15, 163
Mod. Rehab. SRO	0

INCOME DISREGARD CALCULATION

Estimation of cost per unit for persons newly receiving the disregard:

- .13 proportion of certificates and vouchers used by disabled
- .78 proportion of the above who are eligible at the initiation of the program:
 - .11 are ineligible because they are already working; .11 are ineligible because they have not been served by Section 8 for at least 12 months
- .145 rate of return to work among unemployed HUD-assisted disabled in present environment:
 - we have no good estimate of this parameter. Project Network control group worked on average 3.5 months over 2 years following random assignment. We use 3.5/24 as source of parameter
- \$4000 increase in income if employed:
 - Average income in 1996 for disabled employed in certs and vouchers was about \$5000. We assume \$1000 loss in unearned income from other sources accompanies \$5000 increase in earnings.
- 1.09 inflation from 1996
- .3 proportion of income that must be contributed to rent

Basic Formula for all calculations

% Disabled Units .78* .145* \$4000* 1.09* .3* = cost per unit

Example Calculation

Outlay estimation for FY 2001 for Section 8 Tenant based

$.13 \times .78 \times .145 \times \$4000 \times 1.09 \times .3 = \$ 19.23$ per unit

$\$19.23$ per unit * 1.6 million unit* = \$30.8 million

Normal .5 lag assumption on outlays implies **\$15.4 million first year outlays**

	<u>Costs (\$)</u>	<u>Disabled Units</u>	<u>Sources of unit data (FY 2001)</u>
<u>Implemented by rule:</u>			
Section 8 Tenant based	15.4 mil	13%	PD&R/MTCS
AIDS	1.8 mil	25 K units	PD&R
Homeless	2.2mil	30 K units	PD&R
HOME	2.0 mil	28 K units	PD&R
<u>Need statutory language:</u>			
Section 8 Project based	11.4 mil	11%	FY 2001 Budget/Tracs
Rent Supplement (5%)	77K	5%	FY 2001 Budget/APP
Section 236 (5%)	824K	5%	FY 2000 Budget/APP
Section 202 (11%)	440K	11%	Hsg/GAO Report
Section 811 (100%)	2.0 mil	100%	Hsg/GAO Report
Shelter Plus Care	1.4 mil	19 K units	CPD
Mod. Rehab. SRO	N/A	0	CPD