FOIA Number: 2007-0143-F

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Subgroup/Office of Origin: Domestic Policy Council

Series/Staff Member: Margy Waller

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OA/ID Number: 21595

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Folder Title:
PWD [Person with Disability] / Housing

Stack:	Row:	Section:	Shelf:	Position:
S	98	5	11	1

James F. Jordan

07/24/2000 02:16:51 PM

Record Type: Record

To: Lisa M. Brown/OVP/EOP@EOP

cc: See the distribution list at the bottom of this message
Subject: RE: HUD income disregards/deductions

Suggested edits. We recommend checking them with HUD , just to be certain we didn't miss anything.

- **Access Housing 2000 - A Public-Private Partnership to Assist People with Disabilities to Transition from Institutions to the Community by Providing Affordable Housing and Necessary Supports**. The Vice President announced that the Departments of Housing and Urban Development and Health and Human Services, in conjunction with the National Program Office on Self-Determination, a Project of the Robert Wood Johnson Foundation at the Institute on Disability, a University Affiliated Program, University of New Hampshire (NPOSD) are launching a unique public/private partnership, entitled Access Housing 2000, to assist individuals with disabilities in making the transition from nursing homes and other institutional settings into community living. They jointly committed resources to assist States in their efforts to expand the availability of accessible, affordable housing, assure that individuals with disabilities receive the personal assistance and supports necessary to successfully transition from institutions to the community, and exploring ways to increase the use of individual development accounts (IDAs) for low- to moderate-income individuals with disabilities and their families.

  This national demonstration project will provide a model for a coordinated response to the Supreme Court's decision in Olmstead v. L.C.. The partners will launch a five-year national demonstration project to create a model for facilitating individuals with disabilities' transition from institutional settings to community living. The project will begin with approximately 400 beneficiaries residing in targeted regions, with a goal, depending upon available resources, of reaching 2000 persons at full implementation. Participants will include individuals with disabilities who have very low incomes and who currently reside in nursing homes, state institutions, Intermediate Care Facilities for the Mentally Retarded, group homes, their parents' homes, and other community-based residential programs. The goal is to reach a broad geographic sweep, with a target of up to forty states and territories at full implementation. The demonstration project will use Section 8 housing vouchers, Nursing Home Transition Grants, Ticket to Work and Work Incentive Improvement Act grants, and other resources in a targeted manner to help individuals with disabilities make this transition. Access Housing 2000 will also reach out to other potential public and private partners to encourage them to bring additional resources to this effort.

- **Increasing Home Ownership for Persons with Disabilities**. The Vice President announced that a letter entitled "Single Family Loan Production - Increasing Home Ownership Rates for Persons with Disabilities" will be sent to all approved FHA mortgagees, re-emphasizing HUD's commitment to promoting home ownership for persons with disabilities. The letter encourages HUD's lender partners to make the dream of home ownership possible for individuals with disabilities through increased, but prudent flexibility when underwriting their loan applications.

- **Extension of work incentives to a broader range of housing assistance programs.** The Vice President announced that the Administration will take action to extend income ***disregards and*** deductions ~~and disregards~~ benefiting people with disabilities to additional housing programs. He announced a new rule extending ***earned income disregards, which are currently applicable only to public housing, to the following programs: Section 8 housing, the HOME program, HOPWA and Supportive Housing for the Homeless. The new rule also clarifies that income*** deductions ***for disability related expenses, such as medical or attendant care expenses which are*** currently applicable only to public housing and Section 8 housing, ***are*** ~~extended to [all [most]~~ other housing programs. ~~The rule also extends earned income disregards currently applicable only to public housing to Section 8 housing, the HOME program, HOPWA and Supportive Housing for the Homeless. [[and pledged to work with Congress to extend the disregard to the few remaining HUD programs. Can we say anything about this?]]~~

Earned income disregards. ~~**Need deduction explanation too.**~~ In implementing the Quality Housing and Work Responsibility Act of 1998, HUD instituted a grace period during which the new income of individuals with disabilities, who begin working after having been unemployed or receiving certain public benefits, is ***excluded from*** ~~not counted in~~ the calculation of their benefits. Eligible families include those with a person with a disability who ***have*** ~~has~~ been unemployed for 1 or more years or been participating in a job training/self sufficiency program, or those that have received TANF within the past 6 months. For the first year, this important incentive for employment is a full disregard of ***earned*** income, phasing down to a fifty-percent disregard in the second year. Currently, this incentive applies only to HUD's public housing program, but the new regulation will extend the incentive, as it applies to individuals with disabilities, to most of HUD's housing assistance. ~~The regulation also clarifies that certain targeted adjustments to annual income for individuals with disabilities apply to the entire range of HUD housing assistance -- **is this the deductions? Do they apply to all programs or just more programs?**~~ ~~[~~[The Administration will also work with Congress to ensure that this ***earned income*** disregard applies to the few remaining HUD programs not covered by the regulation. ***The Administration currently is reviewing the necessary legislative changes and will submit the requisite changes to the Congress shortly.*** ~~**Can we say anything about**~~

~~**this??]]**~~

Deductions for disability-related expenses. The regulation ***clarifies the extensions of disability related expenses, including medical expenses and attendant care expenses, to additional housing programs. These deductions from income for determining the assisted disabled families rent contribution are currently applicable to public housing and Section 8 housing. This rule will extend these deductions to the other HUD programs, including: HOME Investment Partnership Program (HOME Program), the Section 202 Supportive Housing for the Elderly, and Section 811 Supportive Housing for Persons with Disabilities.*** ~~also clarifies that certain targeted adjustments to annual income for individuals with disabilities apply to the entire range of HUD housing assistance~~ ~~**-- is this the deductions? Do they apply to all programs or just more programs?**~~

An important subgroup of the disabled who will benefit from these actions are the disabled homeless who, with these work incentives and other assistance, can be supported in moving toward self-sufficiency.

Message Copied To:

Andrea Kane/OPD/EOP@EOP
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Michelle M. Aronowitz
07/24/2000 01:03:08 PM

Record Type: Record

To: Margy Waller/OPD/EOP@EOP

cc: michelle m. aronowitz/who/eop@eop, Cliftc... Kellogg/OPD/EOP@EOP, sarah rosen wartell/opd/eop@eop, Andrea Kane/OPD/EOP@EOP

Subject: Re: Treas/HUD/DOJ MOU

I was told by justice on friday that this was NOT going to be signed and announced as part of the amplification period of the ADA celebration -- it looks like there is some miscommunication somewhere along the line.

Andrea Kane [redacted]

Record Type: Record

To: Michelle M. Aronowitz/WHO/EOP@EOP, Margy Waller/OPD/EOP@EOP

cc: Sarah Rosen Wartell/OPD/EOP@EOP

Subject: Treas/HUD/DOJ MOU

Sarah: it occurs to me that you may have views on this and we'll get you a copy 1st thing Monday. It's an MOU I just learned about on Friday that the agencies were developing as part of a package of ADA anniversary deliverables. It will not be released by the White House - the agencies have their own set of deliverables for amplification after POTUS/FLOTUS event on Wed (VP doing an event Tues).

I don't see any major problems but I do have a few general questions.
1) What is the problem/issue the MOU is intended to address? Have there been specific problems of FHA violations in LIHTC properties? I recall various racial situations, but have there also been disability-related incidents? Or, is this trying to increase coordination of enforcement activities among the 3 agencies?

2) I don't know much about FHA, but I assume it deals with discrimination against people on the basis of factors beside disability. It appears that the MOU also applies much more broadly than just issues of disability-related discrimination. While that may be appropriate, it seems a bit odd to then pitch this as an ADA-related deliverable.

3) This seems like it could scare off LIHTC projects at the time we're trying to encourage construction of more affordable housing. I wonder if there's a way to put the scary sounding stuff in a broader context, by adding an introductory graph such as: We recognize that LIHTC plays a critical role in expanding the supply of affordable housing and that most property owners comply with the FHA. However, to ensure that [insert whatever FHA is intended to ensure], we need to ...

4) the refererence to 'enhanced' compliance in 1st graph leaves the impression that compliance is weak now - is it?

5) In 2nd graph, would be helpful to explain what is meant by "in a manner consistent with the Act".

Let;s compare reactions then we can get back to Treasury or other agencies as appropriate.

TO Cliff - From Margy thoughts?

HUD

Draft Date: June 21, 2000

MEMORANDUM OF UNDERSTANDING AMONG

THE DEPARTMENT OF THE TREASURY,

THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND

THE DEPARTMENT OF JUSTICE

Preamble

The United States Departments of the Treasury, Housing and Urban Development, and Justice enter into this memorandum of understanding (MOU) in a cooperative effort to promote enhanced compliance with the Fair Housing Act (Act) for the benefit of residents of low-income housing tax credit properties and the general public.

It is recognized that the Department of the Treasury's (Treasury) Internal Revenue Service (IRS) is responsible for administering and enforcing the tax laws in the LIHTC program under § 42 of the Internal Revenue Code, 26 U.S.C. § 42. In accordance with § 1.42-9 of the Income Tax Regulations, 26 C.F.R. § 1.42-9, low-income housing tax credit properties are to be rented in a manner consistent with the Act. Noncompliance of these properties with the low-income housing tax credit provisions are required to be reported to the IRS by state housing finance agencies under 26 U.S.C. § 42(m)(1)(B)(iii).

It is recognized that the Department of Housing and Urban Development (HUD) is responsible for enforcing the Act, 42 U.S.C. §§ 3601 et seq. In doing so, HUD is required to investigate allegations of housing discrimination, attempt conciliation of the complaint, and determine whether there is reasonable cause to believe discrimination has occurred under the Act. Upon finding reasonable cause, HUD must bring the case before an administrative law judge, or if either party elects to have claims or complaints decided in a civil action, HUD must refer the complaint to the Department of Justice for prosecution in the United States District Court.

It is recognized that the Department of Justice (Justice) is responsible for enforcing the Act, 42 U.S.C. §§ 3601 et seq. Pursuant to § 3614 of the Act, Justice may file a lawsuit whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of discrimination or denial of rights to a group of persons where such denial raises an issue of general public importance. Justice also may file a lawsuit upon referral of matters from HUD involving the legality of any state or local zoning or other land use law or ordinance and after receiving a referral from HUD following an election by a party to a HUD complaint to have the matter decided in a civil action. Justice may enter into settlement agreements and consent decrees with property owners to obtain compliance with the Act. In the event a property owner fails to comply with the terms of the settlement agreement or consent decree, Justice may seek a court judgment to enforce the terms of the settlement agreement or consent decree.

The parties to this MOU agree to the following:

1) Coordination on Notifying LIHTC Property Owners about Charges, Lawsuits, and Other Actions

HUD and Justice will identify LIHTC properties for which there is: 1) a charge by the Secretary of HUD for a violation of the Act; 2) a probable cause finding under a substantially equivalent fair housing state law or local ordinance by a substantially equivalent state or local agency; 3) a lawsuit under the Act filed by Justice; 4) a settlement agreement or consent decree entered into between HUD or Justice and the owner of a LIHTC property; or 5) an agreement entered into between HUD and the owner of a LIHTC property following the issuance of a charge by the Secretary of HUD. HUD or Justice will then transmit the address of the property and a summary of these actions to the appropriate state housing finance agency, using a current list of contacts and addresses of state housing finance agencies provided by the IRS.

Upon the state housing finance agencies reporting this information to the IRS (using Form 8823, LIHTC Agencies Report of Noncompliance), the IRS will send a letter to involved property owners notifying them that a finding of discrimination, including an adverse final decision by the Secretary of HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment by a federal court, could result in the loss of LIHTC. Similarly, the IRS will also send notification to property owners that a judgment enforcing the terms of a settlement agreement, consent decree, or a conciliation agreement entered with HUD following a charge could result in the loss of LIHTCs. The IRS, HUD, and Justice will collaboratively develop the model letters addressed to property owners and other entities. HUD and Justice will also send to the IRS and the appropriate state housing finance agency a summary of the above-referenced actions, describing relevant information such as the precise nature of the violation, the dates of the violation, and proposed corrective actions.

2) Designating Points of Contacts and Interagency Technical Assistance and Training

HUD and Justice will designate personnel to provide the IRS upon request with technical assistance and problem resolution concerning emerging civil rights and discrimination matters involving the administration of the LIHTC program (e.g., accessibility issues, section 8 vouchers, civil rights interpretative issues, and published guidance). In addition, HUD and Justice will provide training upon request to a few designated IRS personnel about the Act. The IRS will designate personnel to provide technical assistance and training upon request to HUD and Justice personnel on general tax administration issues under the LIHTC program, not subject to the IRS's disclosure limitations contained in section 6103 of the Internal Revenue Code.

3) Training for State Housing Finance Agencies and Others

HUD and Justice will make training available upon request to state housing finance agencies and other entities (e.g., developers, property management companies, syndicators) on the Act, including training on inspecting for Act accessibility criteria referenced in the uniform physical condition standards in 24 CFR 5.703. HUD will also encourage substantially equivalent state and local fair housing agencies to invite state housing finance agencies and other entities to participate in civil rights training developed by the substantially equivalent agencies.

4) HUD's Pilot Program to Train Architects on the Act's Accessibility Requirements

HUD has begun the process of developing a pilot program in one region of the country to provide training and technical assistance to architects and others on the accessible design and construction requirements of the Act. HUD has also proposed expanding this program to four regions in FY 2001. HUD will promote participation in the program by members of the American Institute of Architects, including those involved with the design and construction of LIHTC properties.

5) Cooperation in Research Concerning LIHTC Properties

HUD and Treasury will cooperate in research sponsored by either Department concerning LIHTC properties.

6) Cooperation to Identify and Remove Unlawful Barriers to Section 8 Tenants

In consultation with the state housing finance agencies, HUD, Justice, and the IRS will cooperate in identifying and removing unlawful barriers to occupancy of LIHTC properties by individuals holding section 8 vouchers.

7) Cooperation in Assisting Syndicators of LIHTC

HUD, Justice, and the IRS will cooperate in helping the national associations of investment syndicators of LIHTC properties to enhance practices by syndicators in monitoring and promoting compliance with the Act and the LIHTC program.

8) Annual Civil Rights Meeting Among Federal Agencies and Participation in National Conference of State Housing Finance Agencies

HUD, Justice, Treasury, and other interested federal agencies will meet annually to discuss emerging civil rights issues and new methods and programs to increase civil rights compliance in the LIHTC program. IRS will encourage the state housing finance agencies to invite HUD and Justice to the annual national conference of state housing finance agencies. HUD and Justice agree to designate personnel to conduct training and discuss emerging civil rights issues at the national conference.

Implementation

This MOU will become effective 30 days from the date of the last signature on this document.

The parties agree to confer on the interpretation and application of the memorandum as necessary and to conduct a mutual annual review of its operation.

Nothing in this MOU shall be construed to impair HUD's or Justice's authority to enforce the Act nor the IRS's authority to administer the LIHTC program, including complete administrative discretion to deny LIHTC in the event of a violation of the Act.

LAWRENCE SUMMERS Secretary of the Treasury	ANDREW CUOMO Secretary of Housing and Urban Development	JANET RENO Attorney General
DATE	DATE	DATE

Melissa S.
- Michael Barr
Julie K → 414-267-6020
LIHTE
Fair Hsg. Act 1299
622-~~6483~~
op-ed was published.

THE WHITE HOUSE

Domestic Policy Council

DATE: 7/21

FACSIMILE FOR: Michele Aronowitz, Andrea Jacobson

FAX: 6-2256, 5-1307
PHONE:

FACSIMILE FROM: Margy Waller

FAX: 202-456-7431
PHONE: 202-456-5586

NUMBER OF PAGES (INCLUDING COVER): 6

COMMENTS:

7.24.00.

THE WHITE HOUSE

WASHINGTON

1) Jim Jordan edits

2) We are working on legislative changes & should be sending them over.

3) HHS →
SSA →
USDA →
} share info @ rule

4) ~~Harkin~~

From: Ingrid M. Schroeder on 07/24/2000 09:36:25 AM

Record Type: Record

To: Marshall J. Rodgers/OMB/EOP@EOP, Andrea Kane/OPD/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: legislative changes on HUD income disregards

My understanding was that Lisa Brown was either not going to discuss the legislative change explicitly (talk more about the policy and not specifically about the reg. or leg.) or say something like Andrea suggested below (understanding that the leg. part is only a small part of the larger solution which will occur mostly in the regulation). Bottom line is that we did not want to bind ourselves to getting language up to the Hill in any sort of specific time frame.

Lisa was going to talk with OMB's Housing branch today at about noon to get a better read as to where we stand on the reg. review.

Marshall J. Rodgers

Marshall J. Rodgers

07/24/2000 09:08:43 AM

Record Type: Record

To: Ingrid M. Schroeder/OMB/EOP@EOP

cc:
Subject: legislative changes on HUD income disregards

---------------------- Forwarded by Marshall J. Rodgers/OMB/EOP on 07/24/2000 09:09 AM ---------------------------

Andrea Kane [redacted]

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: legislative changes on HUD income disregards

As I understand from Lisa, OMB says these can't be cleared by Tuesday. Is this a case of when not if or is clearance in doubt? What can we say in press paper for Tuesday about legislative actions to extend the disregard to other HUD programs? Can we say "the Administration looks forward to working with Congress..." or "the Administration is exploring legislative options..." or what??

Message Sent To:

Lisa M. Brown/OVP/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP
Marshall J. Rodgers/OMB/EOP@EOP
Kate Gersh/WHO/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Margy Waller/OPD/EOP@EOP
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Message Copied To:

Lisa M. Brown/OVP/EOP@EOP
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Margy Waller/OPD/EOP@EOP
J. Eric Gould/OPD/EOP@EOP

Andrea Kane

Record Type: Record

To: J. Eric Gould/OPD/EOP@EOP, Lisa M. Brown/OVP/EOP@EOP
cc: margy waller/opd/eop@eop
bcc:
Subject: Re: DPC comments on HUD ADA Q&As

I think Lisa should include all of them (or as many as she thinks necessary) in her OVP Q&As; you can include a reduced list in ours. I've starred the ones I think are most important - but might be easier if you wait til Lisa's finalized hers and then plug 'em in. And, you can probably combine some of the real short ones to save space.

VPQ and As 724.ada.d

J. Eric Gould 07/24/2000 12:22:53 PM

- **J. Eric Gould** 07/24/2000 12:22:53 PM

Record Type: Record

To: Andrea Kane/OPD/EOP
cc: Margy Waller/OPD/EOP@EOP
bcc:
Subject: Re: DPC comments on HUD ADA Q&As

Do you want to include all these Q&A in ADA Q&A packet (6 more pages)?
Andrea Kane

Andrea Kane

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Margy Waller/OPD/EOP@EOP
Subject: DPC comments on HUD ADA Q&As

This contains Margy and my comments in redline.

VPQ and As 724.ada.d

Message Sent To:

Lisa M. Brown/OVP/EOP@EOP
J. Eric Gould/OPD/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP
James F. Jordan/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP

FOR INTERNAL USE ONLY

QUESTIONS AND ANSWERS

Incentives for Employment

*Q: What's new here?

will be

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~~. With the ~~is~~ rule the Administration proposes to publish shortly, two of ~~HUD's~~ largest assistance programs, public housing and tenant-based housing vouchers, ~~are~~ covered. The rule also will make~~s~~ 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~~has~~ clarify ~~ied~~ 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~~is~~ this new regulation ~~going to c~~cost?

A: HUD ~~estimates that the first year cost of the new income disregard will be about $21.4 million and about $42.8 million per year after that.~~

no significant cost

*Q: How many people will this serve?

A: **[data to come]**

Q: Isn't this a pretty minimal benefit?

important

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 a ~~major~~ work incentive for~~change~~ 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 ~~drafting~~ developing a ~~in the~~ proposed rule ~~stage~~, 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. Serves 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 ~~will~~would create any.

Q: Where are these vouchers coming from?

A: The initial group of 400 vouchers is~~are~~ from a FY2000 congressional appropriation specifically targeted for non-elderly persons with disabilities. Appropriations will need to be identified for any ~~future~~ vouchers. (Is this right – we thought the out years would also come from turnover???)

additional

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.

Andrea Kane [illegible]

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).

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

Andrea Kane [illegible]

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, <u>for</u> ~~to~~ persons with disabilities served by <u>certain</u> other HUD programs.

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

Andrea Kane [illegible]

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP, Stephen W. Ruszczyk/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.

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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?

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?

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

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?

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.

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?

Rule questions
1. Are there cost implications for the proposed rule?

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.

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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?

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 authoritty?

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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 <u>with a disability</u> who has earned...". Line 28 would read "member <u>with a disability</u> who was unemployed..." and so on on lines 31 and line 2 of p. 17.

Andrea Kane [redacted]

Record Type: Record

To: Andrea E. Jacobson/OMB/EOP@EOP, Stephen W. Ruszczyk/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.

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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 x .78 x .145 x. $4000 x 1.09 x .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**

	Costs ($)	Disabled Units	Sources of unit data (FY 2001)
Implemented by rule:			
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
Need statutory language:			
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. Ruszczyk/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.

<u>Rule questions</u>
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 authoritty? 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 Kane [redacted]

Record Type: Record

To: "Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>
cc: Margy Waller/OPD/EOP@EOP, J. Eric Gould/OPD/EOP@EOP, Lisa M. Brown/OVP/EOP@EOP
bcc:
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.
"Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>

"Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>
07/23/2000 08:44:56 PM

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

Andrea Kane [illegible]

Record Type: Record

To: Margy Waller/OPD/EOP@EOP

cc:

Subject: Re: HUD income deductions/disregards

per my note to OMB and you re: HUD's answers to our questions

---------------------- Forwarded by Andrea Kane/OPD/EOP on 07/23/2000 08:55 PM ---------------------------

"Nestor M. Davidson" <Nestor_M._Davidson@HUD.GOV>
07/23/2000 08:44:56 PM

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cc:

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Andrea Kane [illegible]

Record Type: Record

To: Lisa M. Brown/OVP/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: press paper

I'd change the Access Housing 2000 as follows:

- **Access Housing 2000 – A Public-Private Partnership to Assist People with Disabilities to Transition from Institutions to the Community by Providing Affordable Housing and Necessary Supports**. The Vice President announced that the Departments of Housing and Urban Development and Health and Human Services, in conjunction with the National Program Office on Self-Determination, a Project of the Robert Wood Johnson Foundation at the Institute on Disability, a University Affiliated Program, University of New Hampshire (NPOSD) are launching a unique public/private partnership, entitled Access Housing 2000, to assist individuals with disabilities in making the transition from nursing homes and other institutional settings into community living. They jointly committed resources to assist States in their efforts to expand the availability of accessible~~,~~ affordable housing~~, –~~ and to assure that individuals with disabilities receive the personal assistance and supports necessary to successfully transition from institutions to the community~~, and exploring ways to increase the use of individual development accounts (IDAs) for low- to moderate-income individuals with disabilities and their families~~ [IDAs should be in background paragraph only - they're not a central part of the initiative].

This national demonstration project will provide a model for a coordinated response to the Supreme Court's decision in Olmstead v. L.C.. The partners will launch a five-year national demonstration project to create a model for facilitating individuals with disabilities' transition from institutional settings to community living. The project will begin with approximately 400 beneficiaries residing in targeted regions, with a goal, depending upon available resources, of reaching 2000 persons at full implementation. Participants will include individuals with disabilities who have very low incomes and who currently reside in nursing homes, state institutions, Intermediate Care Facilities for the Mentally Retarded, group homes, their parents' homes, and other community-based residential programs. The goal is to reach a broad geographic sweep, with a target of up to forty states and territories at full implementation. The demonstration project will use Section 8 housing vouchers, Nursing Home Transition Grants, Ticket to Work and Work Incentive Improvement Act grants, and other resources in a targeted manner to help individuals with disabilities make this transition. Access Housing 2000 will also reach out to other potential public and private partners to encourage them to bring additional resources to this effort. In addition, the partners will explore ways to increase the use of individual development accounts (IDAs) for low- to moderate-income individuals with disabilities and their families.

Extension of work incentives for persons with disabilities to a broader range of housing assistance programs. [Lisa - I talked to Nestor about the rest of this section. He and I had a lot of the same comments, so he's going to send edits that I concur with.]

Lisa M. Brown

Lisa M. Brown

07/23/2000 06:20:11 PM

Record Type: Record

To: Andrea Kane/OPD/EOP@EOP

cc: See the distribution list at the bottom of this message

Subject: Re: HUD income deductions/disregards

ADAAnniv.VPannounc.summI want to make sure I have not misstated any of the new policies we are announcing. (I have written this hopefully as if OMB has approved all the deliverables.) Would you pls review the portions with which you are familiar and give me comments? You will see that I have a few questions. THANKS! Who else should see this?

Message Copied To:

andrea e. jacobson/omb/eop@eop
stephen w. ruszczyk/omb/eop@eop
margy waller/opd/eop@eop
j. eric gould/opd/eop@eop
Devorah R. Adler/OPD/EOP@EOP

Message Copied To:

andrea e. jacobson/omb/eop@eop
stephen w. ruszczyk/omb/eop@eop
margy waller/opd/eop@eop
j. eric gould/opd/eop@eop
devorah r. adler/opd/eop@eop

Today, the Vice President announced steps to help enable more individuals with disabilities of all ages to live and work in the community. The Vice President called on the Nation to celebrate the 10th anniversary of the Americans with Disabilities Act by working to create greater access to the American Dream for all. He said that to achieve this vital goal the Federal Government, States, communities, the private sector, the aging community and people with disabilities must work together to identify and actively pursue effective strategies for:

- offering individuals with disabilities the real choices and supports they need to live in their own homes rather than a nursing home or another institution;
- expanding accessible, affordable housing as well as home ownership opportunities for people with disabilities and their families;
- assisting persons with mental illness and substance abuse disorders in accessing the medical, mental health, housing, rehabilitation, and employment services they need to live and work in their community; and,
- setting a national agenda on the development, advancement and transfer of assistive technologies and universal design capabilities.

- **Grants to States to Engage in System Change Activities Designed to Build and Enhance their Capacity to Provide Personal Assistance Services and Supports to People with Disabilities in the Most Integrated Setting Appropriate**. Declaring that, "no one should have to live in an institution or nursing home if they can live in the community with the right support," the Vice President announced new funding for States to work with their disability and aging communities to develop comprehensive, effective plans for placing qualified persons with disabilities in the most integrated setting appropriate to their needs. Each State could use the funds for a variety of system change, capacity building and outreach activities designed to enable people with disabilities to have a real choice in where they want to live and receive services, whether in their own homes and communities or in an institutional setting.

  This $50 million grant initiative is drawn from section 4 of the Medicaid Community Attendant Services and Supports Act of 1999 (MiCASSA) proposed by Senators Harkin and Specter. It will help states develop the comprehensive, effectively working plans endorsed by the U.S. Supreme Court in Olmstead v. LC. The grants will support States in partnering with their disability and aging communities to identify ways to avoid unnecessary institutionalization and advance community-based care in ways that are realistic, equitable and affordable. Every State that is awarded a system change grant will work with a newly established consumer task force comprised of representatives from the disability and aging communities and service providers to develop, implement, and evaluate real choice systems change initiatives. (Each task force will include representatives from Developmental Disabilities Councils, State Independent Living Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports; a majority of its members will consist of individuals with disabilities or their representatives.)

Grants under this systems change initiative can be used to:

- support a Consumer Task Force to assist the State in the development, implementation, and evaluation of its comprehensive, effectively working plan;
- conduct needs assessment and data gathering, training and technical assistance, and demonstrations of new approaches;
- modify policies, practices, and procedures that result in unnecessary institutional bias and/or the overmedicalization of long term services and supports;
- enhance interagency coordination and single point of entry activities;
- support public awareness programs that provide information on the choices available to individuals with disabilities for receiving long-term services and support in the most integrated setting appropriate;
- offset per capita increased fixed costs in institutions directly related to the movement of individuals with disabilities out of specific facilities and into the community;
- cover transitional costs of assisting people with disabilities to move out of institutions and into the community; and
- other systems change activities necessary to develop, implement, and evaluate statewide systems of personal assistance services and supports.

- **Policy Guidance on Medicaid that will Help States Offer Individuals with Disabilities the Services and Supports they Need to Lead Meaningful Lives in Their Communities.** The Vice President announced new policy guidance to States to clarify Medicaid benefits available to persons in the community and additional flexibility to provide home and community based care services. The guidance will help States:
  - assist people with disabilities to make a successful transition from nursing homes and other institutions into the community;
  - expand access to home and community based services; and
  - assure that all eligible people receive comparable Medicaid.

  The new Guidance will:

  1. Assist people with disabilities to make a successful transition from nursing homes and other institutions into the community:

     <u>Waiver Services</u>: The guidance explains the quickest way a State can begin using Medicaid waiver funds to help a person move out of a nursing home or institution back into their community.

     <u>Coverage of Community Transition Expenses</u>: The guidance details how Medicaid can be used to pay for services and one-time expenses incurred when a person moves from an institution into the community. Covered services can include up to 6 months of case management to identify and obtain needed services and accessibility assessments and modifications of the new home or apartment.

     <u>Personal Care Expenses to Avoid Reinstitutionalization</u>: HCFA will now allow States to use Medicaid to continue to pay for personal care for a period of up to two weeks while a person with a disability is hospitalized or absent from his or her home. This will enable a State to help individuals avoid losing their attendants and risking unnecessary institutionalization. This will provide parallel coverage to people whether they are living in a nursing home or in the community.

2. Expand access to home and community based services:
   Habilitation: The new guidance makes clear that habilitation services can be provided to individuals with the full range of developmental, physical and mental disabilities (not just those with developmental disabilities) under a HCBS waiver. This is important because habilitation services focus on assisting individuals to acquire, retain and improve skills important for living in the community.
   Out of State Services: The guidance explains how a Medicaid program can pay for services provided to one of its beneficiaries in another state when it is in the beneficiary's best interest to do so, such as when a person needs to access services in rural or other underserved areas, a mother needs to be near her family, or a student attends college out of State.

3. Assure comparability in Medicaid services:
   Home Health: The new guidance informs States that they may no longer require that people be "homebound" in order to receive Medicaid home health services. Specifically, HCFA indicates that such a State-imposed limit violates Medicaid's requirement that home health services be made available on a comparable basis to anyone on Medicaid who would qualify for nursing home care. (States can set reasonable limits that do not arbitrarily deny or reduce the amount, duration, or scope of a required service solely because of a person's diagnosis, type of illness, or condition, but the guidance will ensure that no one loses access to home health services simply by leaving their homes and spending time in their communities.)
   Nurse Delegation: The new guidance makes clear that States may use Medicaid to pay for services provided by qualified individuals under the supervision of a nurse or a lay person delegated that function under the state nurse delegation law. States are not required to use nurses to perform health-related tasks (e.g., catheter care) which others can be trained to do. This should help States eliminate a layer of unnecessary medicalization of people's lives which many find extremely intrusive.

- **Access Housing 2000 – A Public-Private Partnership to Assist People with Disabilities to Transition from Institutions to the Community by Providing Affordable Housing and Necessary Supports**. The Vice President announced that the Departments of Housing and Urban Development and Health and Human Services, in conjunction with the National Program Office on Self-Determination, a Project of the Robert Wood Johnson Foundation at the Institute on Disability, a University Affiliated Program, University of New Hampshire (NPOSD) are launching a unique public/private partnership, entitled Access Housing 2000, to assist individuals with disabilities in making the transition from nursing homes and other institutional settings into community living. They jointly committed resources to assist States in their efforts to expand the availability of accessible, affordable housing, assure that individuals with disabilities receive the personal assistance and supports necessary to successfully transition from institutions to the community, and exploring ways to increase the use of individual development accounts (IDAs) for low- to moderate-income individuals with disabilities and their families.

This national demonstration project will provide a model for a coordinated response to the Supreme Court's decision in Olmstead v. L.C.. The partners will launch a five-year national demonstration project to create a model for facilitating individuals with disabilities' transition from institutional settings to community living. The project will begin with approximately 400 beneficiaries residing in targeted regions, with a goal, depending upon available resources, of reaching 2000 persons at full implementation. Participants will include individuals with disabilities who have very low incomes and who currently reside in nursing homes, state institutions, Intermediate Care Facilities for the Mentally Retarded, group homes, their parents' homes, and other community-based residential programs. The goal is to reach a broad geographic sweep, with a target of up to forty states and territories at full implementation. The demonstration project will use Section 8 housing vouchers, Nursing Home Transition Grants, Ticket to Work and Work Incentive Improvement Act grants, and other resources in a targeted manner to help individuals with disabilities make this transition. Access Housing 2000 will also reach out to other potential public and private partners to encourage them to bring additional resources to this effort.

- **Increasing Home Ownership for Persons with Disabilities**. The Vice President announced that a letter entitled "Single Family Loan Production - Increasing Home Ownership Rates for Persons with Disabilities" will be sent to all approved FHA mortgagees, re-emphasizing HUD's commitment to promoting home ownership for persons with disabilities. The letter encourages HUD's lender partners to make the dream of home ownership possible for individuals with disabilities through increased, but prudent flexibility when underwriting their loan applications.

- **Extension of work incentives to a broader range of housing assistance programs.** The Vice President announced that the Administration will take action to extend income deductions and disregards benefiting people with disabilities to additional housing programs. He announced a new rule extending income deductions currently applicable only to public housing and Section 8 housing to [all] [most] other housing programs. The rule also extends earned income disregards currently applicable only to public housing to Section 8 housing, the HOME program, HOPWA and Supportive Housing for the Homeless. [[and pledged to work with Congress to extend the disregard to the few remaining HUD programs. **Can we say anything about this?**]]

  Need deduction explanation too. In implementing the Quality Housing and Work Responsibility Act of 1998, HUD instituted a grace period during which the new income of individuals with disabilities who begin working after having been unemployed or receiving certain public benefits is not counted in the calculation of their benefits. Eligible families include those with a person with a disability who has been unemployed for 1 or more years or been participating in a job training/self sufficiency program, or those that have received TANF within the past 6 months. For the first year, this important incentive for employment is a full disregard of income, phasing down to a fifty-percent disregard in the second year. Currently, this incentive applies only to

HUD's public housing program, but the new regulation will extend the incentive, as it applies to individuals with disabilities, to most of HUD's housing assistance. The regulation also clarifies that certain targeted adjustments to annual income for individuals with disabilities apply to the entire range of HUD housing assistance – **is this the deductions? Do they apply to all programs or just more programs?**. [[The Administration will also work with Congress to ensure that this disregard applies to the few remaining HUD programs not covered by the regulation. **Can we say anything about this??]]**

- **National Mental Health Coalition to Promote Community-Based Care for Individuals with Mental Illnesses and Substance Abuse Disorders.** Millions of people with disabilities can lead full, productive lives in their communities. But to live in the community, people need to be able to access not only the medical and mental health services they need, but also the housing, vocational rehabilitation, and employment services that enable them to support themselves in the community. The Vice President announced that the Center for Mental Health Services at the Substance Abuse and Mental Health Services Administration (SAMHSA) will work with a broad-based group of public and private organizations, constituencies and consumers to create state and local coalitions to assist persons with disabilities in accessing the services they need to live in the community.

  The goal of the broad-based coalition is to bring together all of the service delivery providers needed to empower individuals with disabilities to return to their communities. SAMHSA intends to demonstrate that this national level effort can serve as a model for State, County, and local governments in improving the quality of life for persons with mental health and substance abuse disorders. The partners comprising the national coalition will include both traditional partners in the mental health and substance abuse treatment fields, such as professional organizations representing State mental health and substance abuse directors and protection and advocacy organizations, as well as non-traditional partners such as private industry councils, civil rights groups, housing and employment organizations and agencies, hospital administrators, and others.

- **Development and Deployment of Assistive Technology and Technology that Enables Universal Design.** The Vice President announced an Executive Memorandum requiring that the Interagency Committee on Disability Research (ICDR) publish a report identifying priority areas for the development and advancement of assistive technologies and universal design capabilities, and that Federal agencies then develop a strategy for transferring such technology for the benefit of people with disabilities. The development and transfer of assistive technologies will facilitate the development of products that will enable people with disabilities to work and participate in society.

  Assistive technology is used to maintain or improve the functional capabilities of people with disabilities. Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. The development of assistive technologies and products that incorporate universal design principles can significantly improve the quality of life for people with disabilities, and increase their ability to participate in the workplace.

Technology transfers are important because they stimulate economic growth and a better quality of life for all Americans.

JULY 18, 2000

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 92, 200, 236, 574, 582, 583, 882, 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

not employed ≠ unemployed.

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 disregard 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.

includes sec 8 - not for all families.

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 Partnership 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 Gerald Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410, telephone (202) 708-0477.

For the Housing Opportunities for Persons with AIDS Program, contact David Harre, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410, telephone (202) 708-1827.

For the Rental 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 8 Moderate Rehabilitation Program, particularly the program component concerning Single Room Occupancy for Homeless Individuals, 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 Section 202 Supportive Housing Program for the Elderly (particularly the program component concerning 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 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 the Supportive Housing for the Homeless Program, 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

The Quality Housing and Work Responsibility Act of 1998 (title V of the FY 1999 HUD Appropriations Act, Pub.L. 105-287, approved October 21, 1998) (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, now currently applicable only to public housing and Section 8 housing (tenant-based and project-based), and (2) disregarding certain increases in earned income, now currently applicable only to public housing to persons with disabilities served by 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. Statistics being compiled ? by the U.S. Department of Labor 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 determined that two of the statutory changes to the admissions and occupancy requirements for HUD's public housing and Section 8 housing programs (Section 8 tenant-based and project-based assistance) are beneficial to persons with disabilities, specifically with respect to encouraging and facilitating employment of persons with disabilities, and may be implemented administratively in several HUD programs. can we therefore do the same for other groups?

The first amendment proposed by this rule involves expanding the applicability of certain mandatory deductions in calculating family adjusted income to 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( ) (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 providing 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.

The HUD programs to which these deductions would be applicable are as follows: HOME Investment Partnership 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 (the program component concerning Loans for Housing the Elderly and Persons with Disabilities), Section 811 Supportive Housing for Persons with Disabilities, Section 8 Moderate Rehabilitation Program (the program component concerning Single Room Occupancy for Homeless Individuals), the Shelter Plus Care Program, and the Supportive Housing for the Homeless Program. 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, such as "person with disabilities." The terminology in the previous regulations is outdated and this rule proposes to bring these terms up to date.

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 assistance program. 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 for the Homeless.

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. 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.

what @ everybody else???

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, 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 ~~these~~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-based unit;

(2) Owner selection preferences;

any family?

(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 Partnership 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 for the Homeless Program (24 CFR part 583); Section 8 Moderate Rehabilitation Single Room Occupancy for Homeless Individuals Program (24 CFR part 882, subpart H); Section 202 Supportive Housing Program for the Elderly (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 Partnership Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing for the Homeless Program (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. In addition to the definition of "responsible entity" in § 5.100, for § 5.611 and for § 5.617, as applicable, "responsible entity" also 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 "Sponsor" 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 (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 § 5.601 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. ~~, but this~~ This allowance 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) Permissive deductions~~ -- for public housing only~~. (1) For public housing~~ only~~, 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 -- Disallowance of increase in annual income.

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

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

Disallowance. Exclusion from annual income.

Previously unemployed includes a person 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 family residing in ~~public~~ housing assisted 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 was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member 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, 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 ~~PHA~~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.

~~(b)~~(c) Disallowance of increase in annual income.

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the ~~PHA~~responsible entity must exclude from annual income (as defined in ~~§ 5.609 of this title~~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 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 of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the ~~PHA~~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 as provided in paragraph ~~(b)~~(c)(1) or ~~(b)~~(c)(2) is limited to a lifetime 48 month period. ~~It~~The disallowance only applies for a maximum of twelve months for disallowance under paragraph ~~(b)~~(c)(1) and a maximum of twelve months for disallowance under paragraph

~~(b)~~(c)(2), during the 48 month period starting from the initial exclusion under paragraph ~~(b)~~(c)(1) of this section.

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

PART 92 -- HOME INVESTMENT PARTNERSHIP 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, paragraph (c) is revised to read as follows:

§ 92.203 Income determinations.

* * * * *

(c) Although the participating jurisdiction may use any of the three definitions of "annual income" permitted in paragraph (b) of this section, to calculate adjusted income, ~~it~~the participating jurisdiction must apply exclusion from income established at 24 CFR 5.611 and for persons with disabilities, the disallowance of earned income as provided in 24 CFR 5.617, if applicable. The HOME rents for very low-income families established under § 92.252(b)(2) are based on adjusted income. In addition, the participating jurisdiction may base the amount of tenant-based rental assistance on the adjusted income of the family.

* * * *

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).

(1) Person with disabilities means a person who:

(i) Has a disability as defined in section 223 of the Social Security Act,

(ii) Is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which:

(A) Is expected to be of long-continued and indefinite duration,;

(B) Substantially impedes his or her ability to live independently; and

(C) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

(2) The term persons with disabilities shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall e considered a person with disabilities for purposes of eligibility for low-income housing

under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

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;

§ 236.707 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 ~~such~~ 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) ~~In order to~~To receive rental assistance under this subpart, ~~it must have been determined that~~ the income or the individual or family ~~is~~must be determined to be too low to permit the individual or family to pay the approved Gross Rent with 30 percent of ~~such~~the individual's or family's Adjusted Monthly Income, as defined in ~~subpart A of this part~~§ 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 ~~part 200, subpart T of this chapter~~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 ~~part 200, subpart V, of this chapter~~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).

(1) Person with disabilities means a person who:

(i) Has a disability as defined in section 223 of the Social Security Act,

(ii) Is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which:

(A) Is expected to be of long-continued and indefinite duration,;

(B) Substantially impedes his or her ability to live independently; and

(C) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

(2) The term persons with disabilities shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall e considered a person with disabilities for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

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 ~~813.102~~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 persons with disabilities, 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. 1743a(a)(1)), except that ~~the gross income~~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 ~~813.106~~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 882--SECTION 8 MODERATE REHABILITATION PROGRAMS

19. The authority citation for part 882 continues to read as follows:

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

20. Section 882.801 is revised to read as follows:

§ 882.801 Purpose.

The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. The Section 8 assistance is in the form of rental assistance payments. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.) The portion of rent payable by the tenant is determined in accordance with the requirements of this subpart and 24 CFR part 5, subpart F, specifically §§ 5.609 and 5.611.

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

21. 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.

22. 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 813~~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 813~~part 5, subpart F, of this chapter.

Utility allowance is defined in ~~part 813~~part 5, subpart F, of this chapter and is determined or approved by HUD.

23. 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 813~~part 5, subpart F, of this chapter.

* * * * *

Tenant rent means the monthly amount defined in, and determined in accordance with ~~part 813~~part 5, subpart F, of this chapter.

Total tenant payment means the monthly amount defined in, and determined in accordance with ~~part 813~~part 5, subpart F, of this chapter.

Utility allowance is defined in ~~part 813~~part 5, subpart F, of this chapter and is determined or approved by HUD.

Utility reimbursement is defined in ~~part 813~~part 5, subpart F, of this chapter.

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

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

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

25. In § 982.201, paragraph (b)(3) 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 applicant family that is a 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.

by a person w/ disabilities

*   *   *   *   *

Dated: ________________

Andrew Cuomo, Secretary

These proposals would provide income disregards to disabled families where the earned income of the family increases due to an increase in the earned income of the person with disabilities. The person with disabilities has to have either been unemployed for 1 or more years or participating in a job training/self sufficiency program; or the family has to have received TANF within the past 6 months. These legislative proposals would extend this disregard, which is modeled on the disregard in section 3(d) of the United States Housing Act of 1937 and is currently applicable to public housing, to HUD's (1) section 8 non-voucher programs; (2) rent supplement program under section 101 of the Housing and Urban Development Act of 1965; and (3) rental assistance program under section 236(f)(2) of the National Housing Act.

7/21/00 10:35 a.m.
Calculation of Income
Draft Legislation

EARNED INCOME DISREGARD
FOR THE RENTAL ASSISTANCE PROGRAM

CORRECTION OF OUTDATED REFERENCES TO SECTION 202

SEC. ___. EARNED INCOME DISREGARD IN RAP FOR DISABLED FAMILIES; CORRECTION OF OUTDATED REFERENCES TO SECTION 202.

(a) DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS IN OTHER HUD ASSISTANCE PROGRAMS.--Section 236 of the National Housing Act is amended--

(1) in subsection (f)(2)--

(A) by inserting immediately after the paragraph designation "(2)" the following subparagraph designation: "(A)";

(B) by redesignating the first subparagraphs (A) and (B), and subparagraph (C), as clauses (i), (ii), and (iii), respectively;

(C) by inserting before "Notwithstanding" the subparagraph designation "(B)", and adjusting the indentation accordingly;

(D) by redesignating the second subparagraphs (A) and (B), as they existed immediately prior to the redesignation in subparagraph (B) of this paragraph, as clauses (i) and (ii), respectively; and

(E) by inserting at the end the following new subparagraph:

"(C) Notwithstanding any other provision of law, for the purpose of calculating additional assistance payments under this paragraph, the income attributable to a family described in clause (ii) may not be increased as a result of the increased income due to employment of a family member who is a person with a disability during the 12-month period beginning on the date on which the employment is commenced.

"(i) PHASE-IN OF RENT INCREASES.--Upon the expiration of the 12-month period referred to in this subparagraph, the income attributable to a family described in clause (ii) may be increased due to the continued employment of the family member described in clause (ii)(II), except that during the 12-month period beginning upon such expiration the amount of any increase in income may not result in a decrease in the rental assistance payment greater than 50 percent of the amount of the decrease that would be applicable but for this clause.

"(ii) ELIGIBLE FAMILIES.--A family described in this clause is a family--

"(I) that is a disabled family; and

"(II)(aa) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years, which member is a person with a disability;

"(bb) whose earned income increases during the participation of a family member who is a person with a disability in any family self-sufficiency or other job training program; or

"(cc) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act and whose earned income increases due to the employment of a family member who is a person with a disability.

"(iii) DEFINITIONS.--As used in this subparagraph--

"(I) the term `person with a disability' shall mean a person considered to have a disability for the purposes of section 811(k)(2) of the Cranston-Gonzalez National Affordable Housing Act, and

"(II) the term `disabled family' shall be defined by the Secretary in accordance with the definition of the term `person with disabilities' as set forth in section 811 of the Cranston-Gonzalez National Affordable Housing Act."; and

(2) in subsection (j)(2)(B)--

(A) by inserting after the subparagraph designation the following clause designation: "(i)";

(B) by striking "or handicapped"; and

(C) by inserting after the semicolon the following new clause:

"(ii) the term `handicapped family' shall be defined by the Secretary in accordance with the definition of the term `person with disabilities' as set forth in section 811 of the Cranston-Gonzalez National Affordable Housing Act;".

(b) CORRECTION OF ADDITIONAL OBSOLETE REFERENCES TO SECTION 202.--The National Housing Act, as amended by subsection (a), is further amended--

(1) in section 221(i), in the penultimate sentence of the second paragraph, by striking "section 202 of the Housing Act of 1959" and inserting "the term `person with disabilities' in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act"; and

(2) in section 231(f), by striking "section 202 of the Housing Act of 1959" and inserting "accordance with the definition of `person with disabilities' in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act".

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7/21/00 10:25 a.m.
Calculation of Income
Draft Legislation

EARNED INCOME DISREGARD
FOR THE RENT SUPPLEMENT PROGRAM

SEC. ____. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS IN OTHER HUD ASSISTANCE PROGRAMS.--Section 101 of the Housing and Urban Development Act of 1965 is amended--

(1) in subsection (c)(2), by inserting after "appropriate" the following: ", including the earned income disregard set forth in subsection (e)(5)"; and

(2) in subsection (e), by adding after paragraph (4) the following new paragraph:

"(5) Notwithstanding any other provision of law, the Secretary shall define income such that the rental charges for a family described in subparagraph (B) of this paragraph may not be increased as a result of the increased income due to employment of a family member who is a person with a disability during the 12-month period beginning on the date on which the employment is commenced.

"(A) PHASE-IN OF RENT INCREASES.--Upon the expiration of the 12-month period referred to in this paragraph, the rental charges for a family described in subparagraph (B) may be increased due to the continued employment of the family member described in subparagraph (B)(ii), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this subparagraph.

"**(B) ELIGIBLE FAMILIES.**--A family described in this paragraph is a family--

"(i) that is a disabled family; and

"(ii)(I) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years, which member is a person with a disability;

"(II) whose earned income increases during the participation of a family member who is a person with a disability in any family self-sufficiency or other job training program; or

"(III) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act and whose earned income increases due to the employment of a family member who is a person with a disability.

"**(C) DEFINITIONS.**--As used in this paragraph--

"(i) the term `person with a disability' shall mean a person considered to have a disability for the purposes of section 811(k)(2) of the National Housing Act; and

"(ii) the term `disabled family' shall be defined by the Secretary in accordance with the definition of the term `person with disabilities' as set forth in section 811 of the Cranston-Gonzalez National Affordable Housing Act.".

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Very interested in Sec 8 homeownership rule -- we need to work thru issues

RECOMMENDATIONS FOR THE PROPOSED INITIATIVE: ACCESS HOUSING 2000

In response to the Olmstead decision, a proactive initiative that includes a comprehensive and systematic demonstration, technical assistance, policy analysis, and research agenda should be implemented. The initiative is essential to increase the opportunities for economic and community equity by expanding the availability of accessible, affordable housing, home ownership opportunities, and Individual Development Accounts (IDAs) for people with disabilities and their families.

Background: As a federal response to the Olmstead decision, Access Housing 2000 would be a partnership between HUD, HHS, and other agencies as appropriate, aimed at assisting individuals with disabilities to move from nursing homes and other institutions into the community.

This would be accomplished by improving and expanding the availability of accessible, affordable housing, including home ownership opportunities, supporting the use of individual development accounts for low to moderate income individuals with disabilities and their families, and an array of personal assistance and supports necessary to make a smooth and successful transition to living in the community.

HUD and HHS would launch this targeted initiative by: has some disability lang exp in Santorum/Lieberman

- Supporting a set-aside by HHS or other public and private organizations of matching money, administrative costs, and research to provide opportunities for 2000 participants in 40 States to establish IDAs. Allowable uses of these savings accounts will include homeownership, post-secondary education, acquisition of technology, making necessary modifications to a home or residence and capitalization of small businesses. Finding that people w/ disabilities aren't using AFIA — did a study

- Supporting a set-aside of 2000 Section 8 certificates by HUD or public housing authorities for use by people with disabilities and families of children with disabilities who currently reside in nursing homes or institutions in select States to rent, lease or purchase accessible and affordable homes and residences. need to chk w/ HUD whether they have authority

- Funding a technical assistance exchange that will focus on demonstration, policy analysis, and research at \$750,000-1,000,000 a year for 5 years to assist States and others to support people with disabilities to rent or own homes, establish IDA's, and control the services they receive.

- Collaborating with the Robert Wood Johnson National Program Office who will work in partnership with American Disabled for Attendant Programs Today (ADAPT); National Council on Independent Living (NCIL); World Institute on Disability (WID); and Corporation for Enterprise Development (CFED), and others to carry out this initiative.

- Encouraging other Federal agencies, Fannie Mae, States, the disability community, foundations and others to make specific contributions to the work of Access Housing 2000, especially as it relates to the movement of individuals residing in nursing homes and institutions into community homes and apartments.

- Working with Fannie Mae, Federal Home Loan Banks, and Housing Finance Agencies to provide flexible underwriting criteria; mortgage loans; rehabilitation loans; reduced interest rates; and soft-second loans for down payment, closing cost, and rehabilitation assistance.

- Directing States receiving nursing home transition grants to work with HUD, State and local housing agencies and others to facilitate the use of Section 8 vouchers by individuals leaving institutions.

- Expressly permitting and encouraging States receiving WIIA infrastructure development grants to use a portion of the funds to work with these agencies and others to highlight the uses of Section 8 vouchers and otherwise expand housing, home ownership, and savings opportunities for employed individuals with disabilities.

- Urging State Medicaid Directors and other key stakeholders to tap into the initiative.