

TERMINATION OF TENANCY OF FAMILIES EXCEEDING 120% OF AMI

Purpose

To promote its stated mission to provide safe, decent, sanitary, and affordable housing for assisted families at or below 80% of the median income, HADR will implement regulations at 24 CFR §960.261, 960.507, and 960.509 which grants Public Housing Agencies (PHA) the authority to terminate the tenancy of conventional public housing families that are over-the eligible income limit and thereby make units available for applicants who are income eligible.

Background

HOTMA was signed into law on July 29, 2016 (Public Law 114-201, 130 Stat. 782); section 103 of HOTMA amends section 16(a) of the United States Housing Act of 1937 (42 U.S.C. 1437n(a)) (1937 Act) and establishes an income limitation for continued occupancy in public housing. The law requires that after a family's income has exceeded 120 percent of the area median income (AMI) (or a different limitation as may be established by the Secretary) for two consecutive years (the "grace period"), a PHA must terminate the family's tenancy within 6 months of the second income determination or charge the family a monthly rent equal to the greater of: (1) the applicable Fair Market Rent (FMR); or (2) the amount of monthly subsidy for the unit, including amounts from the operating and capital fund, as determined by regulations. For purposes of this document, the income limit established by HOTMA will be referred to as the "over-income limit."

References

24 CFR parts 5 and 960;

ACOP Section 19;

DEFINITIONS

HADR – Housing Authority of Dry Ridge

ACOP – Admissions and Continued Occupancy Policy (applies to Public Housing programs)

AMI – Area Median Income established and updated annually by HUD

FSS – Family Self Sufficiency.

Over-income - Amount exceeding very low-income limit multiplied by 2.4

OVER-INCOME POLICY

In compliance with HUD regulations implementing the Housing Opportunities through Modernization Act, HADR shall take the actions described in this procedure when dealing with public housing tenants who are over the income limit.

1. Definition of an “over-income” tenant: A tenant family whose adjusted income exceeds 120% of Area Median Income for their family size for two consecutive annual reexaminations after their income first is found to reach this level at an interim adjustment or annual reexamination.
2. Determining the “over-income” limit: The over-income limit can be computed by multiplying the very low-income limit by 2.4 for each family size. Thus, if the lower Income limit is \$40,000, the over-income limit will be \$40,000 X 2.4, or \$96,000

At every Interim Adjustment of Rent or Annual Reexamination, Housing staff shall compare each resident’s adjusted income to the over-income limit.

Initial

Determination

If at any time, the PHA becomes aware through an annual reexamination or interim reexamination that the family’s income exceeds the over-income limit; this is the point at which the TWENTY-FOUR MONTH clock (24 consecutive MONTHS) begins for the family.

1. Staff will send a letter to the tenant setting forth the policy above and stating the start of the 2-year clock.
2. If the discovery is found at an interim reexamination, the PHA will change the effective date of the next annual reexamination so that the family will be recertified in 12 months to determine if their income still exceeds the over-income limit.

First

Reexam

1. At the first reexam after the family’s adjusted income exceeded the over-income limit, if their income no longer exceeds the over-income limit, the process is stopped and starts over if their adjusted income goes above the over-income limit in the future.
2. For the family to be subject to the statutory requirements, their adjusted income must continue to exceed the over-income limit.
3. If the family’s adjusted income again exceeds the over-income limit HADR staff will note their file and send them a second written notice informing them that they have one more year before the sanctions, go into effect and;
 - a. if at the end of the next twelve months, their income still exceeds the over-income limit, they will receive a final thirty (30) day notice of lease termination,
 - b. offer the opportunity to utilize the grievance procedure.

1. If the family's adjusted income still exceeds the over-income limit at the second reexam:
 - a. Family will be notified that they are no longer eligible for Public Housing Program housing assistance based on over-income status and that tenancy will be terminated. A 30-day notice of Lease Termination will be provided to these families. In cases where a family does not vacate the housing unit within the time stated in the thirty (30) day notice, judicial eviction proceedings will be brought against the family.