

Questions on the U.S. Treasury's Emergency Rental Assistance (ERA) and Other Rental Assistance Programs

May 12, 2021

Q1. Can participants in the public housing and Housing Choice Voucher (HCV) programs receive assistance under the U.S. Department of Treasury's ("Treasury") [Emergency Rental Assistance \(ERA\) Program](#) for rent, utility arrearages, internet or other housing-related expenses?

A. Yes, Public Housing Authorities (PHAs), HCV landlords and utility providers may accept funds from the ERA program for rental and most utility arrearages for HUD-assisted families. However, PHAs can and should use their existing tools and authorities to help families maintain their housing.

Due to the COVID-19 pandemic, families may have experienced unexpected financial hardships, and some families may have fallen behind on their rent or utilities payments. Consistent with the May 7, 2021 Treasury [FAQs](#), Question 15, HUD-assisted **families that have accumulated a rent or utility arrearage and are at risk of experiencing homelessness are eligible for assistance from the ERA program** provided that ERA funds are not applied to costs that have been or will be reimbursed under any other federal assistance, including Housing Assistance Payments in the HCV Program or Operating Fund assistance in the Public Housing program.

Tenants in the public housing and HCV programs pay rent that is based on their income. Under the U.S. Housing Act of 1937, participating families are statutorily obligated to pay their portion of the rent.¹ If a family experiences a decrease in income, they can request the PHA conduct an income reexamination so their portion of the rent can be adjusted downward. Before PHAs accept ERA funds, HUD advises PHAs to complete any pending or requested reexaminations and, as a best practice to ensure no duplication of assistance, PHAs are encouraged to make the new tenant rent effective the month after the loss in income occurred. If the reexamination already occurred, as a best practice to ensure no duplication of assistance, the PHA should consider making such previously completed interims effective for the new tenant rent the month after the change. If these best practices are not currently adopted by the PHAs but desired by the PHAs, the PHAs must first update their policies to incorporate these best practices.

For utility costs, the family may receive ERA for the utility arrearage that exceeds the utility allowance. Families may also be eligible to receive ERA assistance for other housing-related expenses and internet service.

Q2. Can PHAs accept ERA funds or other rental assistance funds from a third-party for prospective rent payments for public housing or HCV families?

A. No, prospective rent payments paid directly to PHAs or landlords by a third-party are not allowable under the U.S. Housing Act of 1937 because participating families are statutorily obligated to pay their share of the rent. Absent a PHA granting a hardship exemption, or allowing a minimum rent of \$0, the PHA must require that a family residing in public housing or receiving assistance with HCV pay the minimum monthly rental amount.² Public housing and HCV families experiencing a loss of income or other financial hardships related to the pandemic should request an interim recertification to have their

¹ 42 U.S.C. 1437a(a)

² 42 U.S.C. 1437a(a)(3)(B)); 24 CFR 5.630

rent adjusted downward. PHAs are strongly encouraged to make the effective date of the new rent based on the reexamination the month after the income loss was reported so tenants can continue to pay rent and not accrue balances.

Q3. What if a family receives rental assistance funds directly from the ERA Program or another program and pays their share of the rent with it? Can a PHA or landlord accept that, or do they have to verify the source of the funds?

A. If a family receives rental assistance funds directly and uses it to pay their rent, the PHA or landlord may accept the payment. The PHA or landlord does not need to verify the source of funds before accepting payment from the family.

Q4. If a family receives assistance from the [ERA program](#), must that be counted as income? What about other state or local programs?

A. No. Under [section 501\(j\) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 \(Dec. 27, 2020\)](#), assistance provided to a household shall not be regarded as income and shall not be regarded as a resource for purposes of determining the eligibility of the household or any member of the household for benefits or assistance, or the amount or extent of benefits or assistance under any Federal program or under any State or local program financed in whole or in part with Federal funds.

While the above applies to the ERA Program, other state or local programs that provide regular assistance may not be covered by this exclusion. Families remain responsible for reporting new income to the PHA as described in its policies, with a reminder that annual income does not include temporary, non-recurring or sporadic income.³

Q5. Can PHAs share their data on participants with ERA Program grantees, or provide verification of whether a family is receiving rental assistance? Can HUD provide access to the Inventory Management System (IMS)/PIH Information Center (IMS-PIC) system?

A. PHAs can share information about a family only if that family consents to their data being shared. Absent consent, PHAs are not authorized to share data regarding families in the public housing or HCV programs with third parties. PHAs are obligated to protect Personally Identifiable Information (PII) in their systems as discussed in [PIH's COVID-19 FAQs Section 4.19](#) and the notices cited therein. HUD is not able to provide ERA Program grantees access to IMS/PIC at this time.

To determine if a family is participating in a rental assistance program, Treasury advised in its [ERA FAQs](#), Question 15 that grantees administering ERA funds “may rely on an attestation from the applicant regarding nonduplication with other government assistance in providing assistance to a household.” For example, families may be asked if they receive rental assistance from a PHA for a voucher or if they live in public housing or a property with Section 8 assistance. ERA grantees may ask for a copy of the lease or verification of the amount owed in arrearage. PHAs and participating landlords may provide this information if the family consents.

³ 24 CFR 5.609(c)(9)

Q6. Whose responsibility is it to ensure there is no duplication of federal benefits?

A. This responsibility is shared among families, ERA grantees, landlords and PHAs. While the statutory prohibition on duplication of benefits only applies to ERA awards using the first tranche of funding (or “ERA1” in Treasury guidance), HUD encourages PHAs to follow these as best practices regardless of which ERA funding source used. The authorizing statute for the ERA requires that payments not be duplicative of any other federally funded rental assistance provided to an eligible household for the public housing and HCV programs:

- Per [ERA FAQs Question 15](#), the ERA grantee must review the household’s income and sources of assistance to confirm that the ERA assistance does not duplicate any other assistance for the same costs. Participating families may be asked to “self-attest” that ERA assistance does not duplicate other government assistance.
- Families who experienced a loss of income should continue to follow the process required by their PHA to report that loss so the PHA may complete an interim reexamination.
- The amount paid to the utility provider should exclude what was offered to the resident as a utility allowance to avoid duplication of benefits.

PHAs managing public housing:

- Must ensure that the amount received from the ERA grantee is for a current family with a rental arrearage, and not prospective rent payments.
- Should consider communicating with families about ERA assistance and their obligation to report their participation in the public housing program if the family chooses to apply for assistance.
- Should consider applying for ERA assistance for families in arrears after obtaining family’s consent to participate in the program.
- As a best practice, complete a reexamination and make it effective the month after the income loss was reported. If the reexamination already occurred due to family’s income loss, the PHA should, as a best practice, ensure the change in the family’s share of the rent is effective the month after the reduction was reported.⁴

PHAs managing the HCV program:

- Should consider communicating to landlords and participating families of their obligation to report their participation in the HCV program to ERA grantees. If they apply for assistance.
- Should ask landlords who agree to participate in the ERA to report to the PHA the total amount of the tenant’s arrearage due and the total amount of funds received from the ERA grantee.

⁴ PHAs are reminded that if the timing of the rent change conflicts with the PHA’s current policies in the Admissions and Continued Occupancy (ACOP) or HCV Administrative Plan, the PHA should update their policies to reflect the change. Per PIH Notice 2021-14, the PHA may informally adopt changes before September 30, 2021 and formally adopt such revisions no later than December 31, 2021.

- As a best practice, complete the participant’s reexamination and make it effective the month after the income loss was experienced. If the reexamination already occurred due to family’s income loss, the PHA should ensure the change in the family’s share of the rent is effective the month after the reduction was reported and update the HCV Administrative plan if this is a process change.⁴ PHAs should be mindful of the potential for the duplication of benefits when processing reexaminations.

Q7. My PHA has accumulated a high level of tenant accounts receivables (TAR) over the course of the pandemic related to missed rent and unpaid fees. Can I use the ERA funds to cover those balances, at least for current families?

A. As described above, PHAs can accept ERA payments for rental arrearages for families that are still active public housing families, but there are some additional steps described below that PHAs should take to ensure there are no duplications of benefits. ERA payments can include rent arrearages, and additionally, pursuant to [ERA Program FAQs Question 7](#), reasonable accrued late fees in certain cases. A PHA may not accept ERA payments for former public housing families with outstanding rent balances.

PHAs should first take steps to adjust rents as required by statute and regulations for any family that has reduced family income. HUD encourages PHAs to make any such rental adjustments effective the month after the date of the income loss event. Families may not, however, be given amnesty for rents due.

As a reminder, PHAs are not permitted to waive tenant shares of rent owed or otherwise provide for rent amnesty in the public housing program.

Q8. As a condition of receiving ERA funds, some PHAs have been asked to reduce the arrearage amount owed by a public housing family. Can a PHA agree to forgive a debt owed by a public housing family, or reduce the amount owed?

No, PHAs cannot forgive rent owed or reduce the amount owed for public housing. There is no expressed authority under the U.S. Housing Act (see Section 3(a)(1)) or HUD regulations that would grant a PHA discretion to forgive or reduce a public housing tenants’ rental arrears for rent owed. Families participating in the public housing program are statutorily obligated to pay their portion of the rent, and rents are adjusted based on income or at a minimum level established by the PHA.

While PHAs may not forgive rent owed, they may remove any fees assessed for missed rent. PHAs can also review the total arrearage and adjust for an updated reexamination if it was not adjusted retroactively to the month income loss occurred.

If a PHA decides to forgive fees assessed and adjust the effective date for an interim examination, they should keep a record for the family of the adjustment made and update their policies. Based on Notice PIH 2021-14, policies can be updated for approval by the Board of Commissioners by December 31, 2021.

Q9. Can a landlord participating in the HCV program agree to reduce the amount of rent owed by a participating family? This is entirely the choice of the owner of the HCV unit (landlord). The family’s share of rent is a statutory obligation under Section 8 (o)(2) of the U.S. Housing Act of 1937 and further defined in regulation at 24 CFR 982.515. Outside of any governing eviction moratorium, under the HCV program, the owner may terminate tenancy for nonpayment of rent or other amounts due under the

lease; however, the owner is not required to do so. Likewise, private owners have no obligation under the program to demand payment of back rent and may agree to reduce the total amount of rent owed.

If the family and landlord receive funds under ERA for the rent arrearages, PHAs should be mindful of the potential for duplication of benefits when processing reexaminations.