

FY22 Family Self-Sufficiency FINAL RULE

June 6, 2022

Important Information

- Yes, this webinar will be recorded and the PPTs made available.
- This webinar is NOT FSS 101. It is about CHANGES to program regulations and requirements in the Final Rule.
- SIGN UP TO THE FSS MAILING LIST
 - [Sign up for the HUD FSS Listserve](#)
 - <https://public.govdelivery.com/accounts/USHUDPIH/signup/30989>
- The answer to “where?” is almost always [FSS Resources Page](#)
 - (google HUD FSS and you’ll get there)
- Questions? FSS@hud.gov

FSS Final Rule – What’s Next?

Final Rule published in Federal Register

- Final Rule Webinar – June 6, 2022

New Contract of Participation Form (HUD-52650)

- Available on FSS Resources Page

New SAMPLE Escrow Calculation Worksheet

- Available on FSS Resources Page
- Webinar on Escrow Calculation – June 9

Sample FSS Action Plan

- Webinar on FSS Action Plan

Updated Guidebook

Updated online training and quiz

- Requirement to re-take online training

FSS History & Present

1990 – Cranston-Gonzales Act authorizes FSS

1998 – Quality Housing and Work Responsibility Act (QHWRA) – first re-authorization

FY14 – PH FSS & HCV FSS combined

FY15 – Authorization extends to PBRA owners (with no funding)

5/24/2018 – **Economic Growth, Regulatory Relief, and Consumer Protection Act** – re-authorizes FSS

9/21/2020 – Proposed Rule Published

5/16/2022 – Final Rule Published

Implementation of the Final Rule

- Effective – June 16, 2022
- Required – November 14, 2022
- All FSS Programs will be required to update their FSS Action Plans to reflect the new regulations, submit to HUD and be approved before you can start enrolling new participants under the new regulations.
- In order to have the new regs apply to existing FSS participants, you must, person-by-person, sign and updated Contract of Participation (CoP) to indicated that you have discussed the new rules with the participant and they want to have the new rules apply to them.

Funding

24 CFR 984.107

- Expands eligibility for program funding from only public housing and voucher programs to now include multifamily (Project-Based Rental Assistance) owners as well
- Codifies Funding Formula - 1:25 for first coordinator and 50 for each additional ratio
- Requires HUD to fund renewals before new/expansion

Enrollment – Which Rental Assistance?

24 CFR 984.101(b)

- Section 9 – Public Housing
- Section 8(o) - HCV including all special purpose vouchers
 - FUP, FYI, VASH, EHV, Mainstream, etc.
 - PBV
 - Section 8(y) – Voucher homeownership
- Section 8 Moderate Rehabilitation for low-income families
- Moderate Rehabilitation Single Room Occupancy for homeless individuals under 24 CFR part 882.
- Project-Based Rental Assistance (PBRA) also known as Multifamily

Definition of FSS Program Coordinator

24 CFR 984.103

- **FSS Program Coordinator** means the person(s) who runs the FSS program. This may include (but is not limited to) performing outreach, recruitment, and retention of FSS participants; goal-setting and case management/coaching of FSS participants; working with the community and service partners; and tracking program performance.

The old reg did not have a definition of FSS Program Coordinator

Mandatory Program Size

24 CFR 984.105(b)

Each PHA that has mandatory program slots remaining as of May 24, 2018

- PH and HCV required participants combined, as of May 24, 2018
- All graduations of any rental assistance program count toward reducing the mandate
- SEMAP still only counts HCV
- THIS HAS NOTHING TO DO WITH NOFO FUNDING

24 CFR 984.105(e)

- Exceptions to the requirement to run a program or an exception to run a smaller program can now be granted for FIVE years instead of THREE.

Changes in FSS Action Plan requirements

- HUD will provide an FSS Action Plan checklist soon
- HUD will provide a SAMPLE Action Plan that will have references to the updated GUIDEBOOK (expected July)
- HUD will be offering a webinar on the Action Plan as well (expected July)
- It is likely that the updates to the FSS Action Plan will be considered a significant amendment and require your Board to approve. (more information soon)

FSS Action Plan requirements (no change)

- Family Demographics
- Estimate of participating families (program size/number of FSS slots)
- Eligible families from other self-sufficiency program
- FSS family selection procedures
- Incentives to encourage participation
- Outreach efforts
- FSS activities and supportive services
- Method for identification of family support needs
- Program termination; withholding of services; and available grievance procedures
- Assurances of non-interference with the rights of non-participating families
- Timetable for program implementation
- Certification of coordination

Changes in FSS Action Plan requirements

24 CR 984.201

(13) Optional additional information. Such other information that would help HUD determine the soundness of the proposed FSS program. This may include:

- (i) Policies related to the modification of goals in the ITSP;
- (ii) The circumstances in which an extension of the Contract of Participation may be granted;
- (iii) Policies on the interim disbursement of escrow, including limitations on the use of the funds (if any);
- (iv) Policies regarding eligible uses of forfeited escrow funds by families in good standing;
- (v) Policies regarding the re-enrollment of previous FSS participants, including graduates and those who exited the program without graduating;
- (vi) Policies on requirements for documentation for goal completion;
- (vii) Policies on documentation of the household's designation of the "Head of FSS Household;" and
- (viii) Policies for providing an FSS selection preference for porting families (if the PHA elects to offer such a preference).

Changes in PCC Requirements

24 CFR 984.202(b)

PCC Must include

- one or more FSS Program Coordinators
- one or more participants from each HUD rental assistance program served by the PHA's FSS program.

PHA may seek assistance from an area-wide, city-wide and/or local resident council in identifying the participant representative from Public Housing

- Old reg said “shall be solicited from”

Added to recommended PCC membership

- public and private primary, secondary, and post-secondary education or training institutions
- financial empowerment organizations

Changes in Family Selection Procedures

24 CFR 984.203(b)

Selection among families with preference. The PHA may use either of the following to select among applicants on the FSS waiting list with the same preference status:

- (1) Date and time of application to the FSS program; or,
- (2) A drawing or other random choice technique.

Enrollment – who?

24 CFR 984.303(a)

- Expands eligibility for program enrollment from only the Head of Household to now any adult member of the household (Head of FSS Family) as designated by the family
 - One CoP per family
 - ITSP for as many members of the family as wish to participate
 - Escrow goes to the person who signs the CoP

24 CFR 984.103

- **Head of FSS family** means the designated adult family member of the FSS family who has signed the CoP. The head of FSS family may, but is not required to be, the head of the household for purposes of determining income eligibility and rent.

Contract of Participation

24 CFR 984.303(c)

- Base Contract of Participation (CoP)
 - each FSS family will be required to fulfill those CoP obligations to which the participating family has committed itself under the contract of participation no later than 5 years after the ~~effective date~~ first re-examination of income after the execution date of the CoP.
 - This means that you will not know the end date of the CoP at enrollment.
 - Be aware of how HOTMA changes rules around interim re-certifications
- New CoP Form HUD-52650
[HUD-52650 FSS Contract of Participation](#)

Contract of Participation/ITSP

24 CFR 984.303(b)(2)

Aside from the goals specifically required in this section, PHAs or owners must work with each participant to establish realistic and individualized goals and may not include additional mandatory goals or mandatory modifications of the two mandatory goals.

- Not a change... just added to regs

Suitable Employment

24 CFR 984.303(b)(4)(iii)

- Determination of suitable employment. A determination of suitable employment shall be made by the PHA or owner, with the agreement of the affected participant, based on the skills, education, and job training, and receipt of other benefits of the household member, and based on the available job opportunities within the jurisdiction served by the PHA. or in the community where the PBRA property is located.

Services to be Coordinated

- (i) *Child care*— Child care (on an as-needed or ongoing basis) of a type that provides sufficient hours of operation and serves an appropriate range of ages;
- (ii) *Transportation*— Transportation necessary to enable a participating FSS family member to receive available services, or to commute to their place(s) of employment;
- (iii) *Education*— Remedial education; education for completion of ~~secondary or~~ high school or attainment of a high school equivalency certificate; education in pursuit of a post-secondary ~~schooling; degree or certificate;~~
- (iv) *Employment*—~~job~~ supports. Job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the CoP;
- (v) *Personal welfare*— Substance/alcohol abuse treatment and counseling; , and health, dental, mental health and health insurance services;
- (vi) *Household* ~~skills and management~~—~~training in homemaking and parenting skills; .~~ Training in household management;
- (vii) *Homeownership and housing counseling.* Homeownership education and assistance and housing counseling;
- (viii) *Financial empowerment.* Training in financial literacy, such as financial coaching, training in financial management, asset building, and money management; , including engaging in mainstream banking, reviewing and improving credit scores, etc.; and
- ~~(7) Counseling—counseling in the areas of:~~
 - ~~(i) The responsibilities of homeownership;~~
 - ~~(ii) Opportunities available for affordable rental and homeownership in the private housing market, including information on an individual's rights under the Fair Housing Act; and~~
 - ~~(iii) Money management; and~~
- (ix) *Other services*—any. Any other services and resources, including case management, ~~reasonable accommodations~~ optional services, and specialized services for individuals with disabilities, that ~~the PHA may determine~~ are determined to be appropriate in assisting FSS families to achieve economic independence and self-sufficiency. Reasonable accommodations and modifications must be made for individuals with disabilities consistent with applicable Federal civil rights and nondiscrimination laws.

Escrow

- . HUD will offer a webinar on
 - . Changes in escrow calculation
 - . New FSS Calculation worksheets for both PHAs and PBRA owners
- . June 9, 2022 at 1:30 eastern

Escrow

- **Baseline/Current annual earned income** means, for purposes of determining the FSS credit under § 984.305(b), the FSS family's total annual earned income from wages and business income (if any) as of the effective date of the FSS contract. In calculating baseline annual earned income, all applicable exclusions of income must be applied, except for any disregarded earned income or other adjustments associated with self-sufficiency incentives that may be applicable to the determination of annual income.
- **Baseline/Current monthly rent** means, for purposes of determining the FSS credit under § 984.305(b):
 - (i) The FSS family's total tenant payment (TTP), as of the effective date of the FSS contract, for families paying an income-based rent as of the effective date of the FSS contract; or
 - (ii) The amount of the flat or ceiling rent (which includes the applicable utility allowance), and including any hardship discounts, as of the effective date of the FSS contract, for families paying a flat or ceiling rent as of the effective date of the FSS contract.

Escrow

- “120-day rule” is permanently gone. At enrollment, the most recent effective rent certification must be used to establish the baseline.
- If family has income disregarded due to EID (which will sunset with HOTMA), JPEID or any other self-sufficiency income disregard, that income is INCLUDED in the baseline.
 - This doesn't change the amount the family has to pay in rent... it just sets the baseline so the escrow doesn't start until they are paying the full income-based rent and THEN increase.
- Regs (and worksheet) now account for utility allowance and flat rent

Escrow Calculation

24 CFR 984.305(b)(2)

(2) *Computation of amount.* The FSS credit amount shall be the lower of:

(i) Thirty (30) percent of one-twelfth (1/12) (i.e., two and a half (2.5) percent) of the amount by which the family's current annual earned income exceeds the family's baseline annual earned income; or

(ii) The increase in the family's monthly rent. The increase in the family's monthly rent shall be the lower of:

(A) The amount by which the family's current monthly rent exceeds the family's baseline monthly rent;

(B) For HCV families, the difference between the baseline monthly rent and the current gross rent (i.e., rent to owner plus any utility allowance) or the payment standard, whichever is lower; or

(C) For PBV, Mod Rehab, including Mod Rehab SRO, and PBRA families, the difference between the baseline monthly rent and the current gross rent (i.e., rent to owner or contract rent, as applicable, plus any utility allowance).

Incorrect Income Reporting

24 CFR 984.305(a)(2)(iii)

If the FSS family has been found to have under-reported income after the baseline annual earned income was set, the amount credited to the FSS escrow account will be based on the income amounts originally reported by the FSS family.

If the FSS family is found to have under-reported income in the re-examination used to set the baseline, the escrow for the entire period of the CoP will be re-calculated using the correct income to set the baseline and then calculate subsequent escrow amounts.

Accounting for Escrow

24 CFR 984.305(a)

(a) Establishment of FSS escrow account—(1) General. The PHA or owner shall deposit the FSS escrow account funds of all families participating in an FSS program into a single interest-bearing depository account.

- The depository account may be part of the PHA's or owner's overall accounts or a separate account
- Such escrow credit amount must be deposited each month by the PHA or owner to each family's FSS escrow account within the PHA's or owner's depository account.
 - Old reg said “periodically, but not less than annually”
 - Escrow is deposited each month regardless of whether the family pays rent or pays it on time

Escrow Disbursement

24 CFR 984.305(a)(2)(iii)

- Clarification that the amounts due to the PHA/owner can only be taken by the PHA/owner from the escrow account AT THE TIME OF FINAL DISBURSEMENT.

Escrow

24 CFR 984.305(b)(3)

- removes cap on increases in escrow monthly savings for families making between 50% and 80% of AMI
- New Sample Escrow Credit Worksheets
- [FSS Escrow Spreadsheet for PHAs](#)
- [FSS Escrow Spreadsheet for Project-Based Rental Assistance \(PBRA\) owners](#)

Escrow

24 CFR 984.305(b)(4)(iii)

- No escrow credit

(iii) During the time an HCV family is in the process of moving to a new unit and is not under a lease.

Forfeited Escrow

24 CFR 984.305(f)

- Forfeited escrow no longer goes back to Op Fund/HAP
 - Now goes into an account to be used for the benefit of FSS families
 - (i) Specifically, such funds may be used for the following eligible activities:
 - (A) Support for FSS participants in good standing, including, but not limited to, transportation, child care, training, testing fees, employment preparation costs, and other costs related to achieving obligations outlined in the CoP;
 - (B) Training for FSS Program Coordinator(s); or
 - (C) Other eligible activities as determined by the Secretary.
 - (ii) Such funds may not be used for salary and fringe benefits of FSS Program Coordinators; general administrative costs of the FSS program, for housing assistance payments (HAP) expenses or public housing operating funds; or any other activity determined ineligible by the Secretary.
- Accounting Brief #23 will be updated to Accounting Brief #26 &
 - a PIH Notice will be issued on how to do the accounting for this new pot of funds.

Extensions

24 CFR 984.303(d)

As used in this paragraph (d), good cause means:

(1) Circumstances beyond the control of the FSS family that impede the family's ability to complete the CoP obligations, as determined by the PHA or owner, such as a serious illness or involuntary loss of employment;

(2) Active pursuit of a current or additional goal that will result in furtherance of self-sufficiency during the period of the extension (e.g., completion of a college degree during which the participant is unemployed or under-employed, credit repair towards being homeownership ready, etc.) as determined by the PHA or owner; or

(3) Any other circumstance that the PHA or owner determines warrants an extension, as long as the PHA or owner is consistent in its determination as to which circumstances warrant an extension.

Graduation

24 CFR 984.303(g)

- The “30% rule” as an option for graduation has been removed.

24 CFR 984.303(b)(2)

- For any FSS family that is a recipient of welfare assistance, at the outset of the CoP or that receives welfare assistance while in the FSS program, must become independent from welfare assistance ~~and remain independent from welfare assistance at least one year~~ before the expiration of the term of the contract of participation, including any extension thereof,
- “Welfare-free” requirement is now at graduation, no longer 12 months.

Definition of “Welfare”

Welfare assistance means (for purposes of the FSS program only) income assistance from Federal (i.e., Temporary Assistance for Needy Families (TANF) or subsequent program), State, or local welfare programs, and includes only cash maintenance payments designed to meet a family’s ongoing basic needs. _Welfare assistance does not include:

Added

(xi) Child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child’s need and not on the need of the child’s current non-parental caretaker.

Termination with Escrow Disbursement

24 CFR 984.303(k)

The CoP will be terminated with FSS disbursement when:

- (i) Services that the PHA or owner and the FSS family have agreed are integral to the FSS family's advancement towards self-sufficiency are unavailable
- (ii) The head of the FSS family becomes permanently disabled and unable to work during the period of the contract, unless the PHA or owner and the FSS family determine that it is possible to modify the contract to designate a new head of the FSS family; or
- (iii) An FSS family in good standing moves outside the jurisdiction of the PHA (in accordance with portability requirements at §982.353 of this chapter) for good cause, as determined by the PHA, and continuation of the CoP after the move, or completion of the CoP prior to the move, is not possible.

PHAs must be consistent in their determinations

Escrow in cases of death

- The Proposed Rule proposed an automatic disbursement of escrow to the family/estate if an FSS participant passed away before Graduating and there was no other adult family member to take over the CoP.
- This is NOT in the Final Rule
- This would still be a matter for a waiver

Portability

24 CFR 984.306

| | RHA administers/bills | RHA absorbs |
|-----------------------|-----------------------|-------------|
| RHA has FSS | YES | YES |
| RHA does not have FSS | YES | NO |

Portability

If continued participation in FSS is not possible, the initial PHA must clearly discuss the options that may be available to the family, depending on the family's specific circumstances, which may include, but are not limited to,

- modification of the FSS contract
- termination with FSS escrow disbursement
- termination of the FSS contract and forfeiture of escrow
- locating a receiving PHA that administers an FSS program.

*PHA needs to be consistent in determinations of "good cause" and whether to disburse escrow.

Reporting

- HUD will be issuing an annual report survey electronically (MS Forms/Survey Monkey) in Jan/Feb of each year.
- A word version of the form is available on the FSS Resources Page
 - [FSS Annual Report](#)
 - This will not include demographic information – that will still all come from PIC.

Monitoring

- PIH Field Offices will be monitoring 20% of the FSS programs in their portfolio every year starting in FY23
- The self-assessment checklist that will be the basis of the review is available on the FSS Resources Page
 - [FSS Monitoring Review Tool Self-Assessment](#)

PBRA owners

- Cooperative Agreements
- PCCs – 24 CFR 887.105(a)(4)

When a Program Coordinating Committee (PCC), as described in § 984.202 of this title, is available, owners shall work with that PCC or shall create their own PCC, either by themselves, or in conjunction with other owners

- If no existing PCC is available, owners are encouraged to create their own
- Annual reports instead of Quarterly as of June 17, 2022
 - Do not submit a Q2 quarterly report
 - Owners cannot use the new forms until their updated Action Plan has been approved

Cooperative Agreements

24 CFR 984.106

- Between PHAs and PBRA owners
 - Both entities must be covered by an Action Plan – either separate or joint
- PHA provides case management/coaching
- PBRA owner provides escrow calculation and maintenance
- Must include procedures for exchange of escrow information & changes in FSS Action Plans
- PHA may count PBRA residents as participants for NOFO purposes

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