

# Centers for Disease Control and Prevention (CDC) Eviction Moratorium FAQs for HUD's Office of Public and Indian Housing

*Updated: 11/18/20*

The following FAQs are from the Office of Public and Indian Housing (PIH) to provide guidance for families assisted under PIH programs on the Centers for Disease Control and Prevention's (CDC) Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Notice and Order (the Order) that imposes a temporary halt in residential evictions to prevent the further spread of COVID-19 between September 4, 2020 through December 31, 2020. **The guidance in this section supplements the FAQs titled: [HHS/CDC TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE FURTHER SPREAD OF COVID-19](#).** Please see these FAQs for further information.

## **Applicability:**

**EM-CDC 1. Does the CDC eviction moratorium automatically apply to, and protect, all HUD-assisted residents? (Updated 11/18/20)**

A: The [CDC's Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Notice and Order \(the Order\)](#) imposes a temporary halt in residential evictions to prevent the further spread of COVID-19 between September 4, 2020 through December 31, 2020. The Order applies to all tenants, lessees, or residents of residential property in the country who are subject to eviction for nonpayment of rent and who sign and submit a [declaration](#), as described in the Order, under penalty of perjury. Translated versions of the declaration are posted on HUD's website, available [here](#).

The Order only applies in states (including the District of Columbia), localities, territories, or tribal areas that do not have a moratorium on residential evictions in place that provides the same or greater level of public-health protection than the CDC's Order. The Order does not apply in American Samoa, which has reported no cases of COVID-19, until such time as cases are reported. The Order applies to all PIH programs, including the:

- Public Housing program
- Housing Choice Voucher (HCV) program
- Moderate Rehabilitation program
- Indian Housing Block Grant (IHBG) program
- Indian Community Development Block Grant (ICDBG) program
- Indian Home Loan Guarantee (Section 184) program
- Native Hawaiian Housing Loan Guarantee (Section 184A) program
- Title VI Loan Guarantee program, the Native Hawaiian Housing Block Grant (NHHBG) program
- All other programs administered by the Office of Native American Programs

Under the Order, HUD-assisted residents must sign and submit a declaration to become a “[covered person](#)” and receive the Order’s protection. The signed declaration must be submitted to the owner of the residential property where they live or to another person who has a right to have them evicted or removed from where they live. A resident cannot be required to complete the declaration. However, without the declaration, residents are not protected from eviction under the Order. This means that until the declaration is signed and submitted to their Public Housing Agency (PHA), landlord, Tribe or Tribally Designated Housing Entity (TDHE), the CDC eviction protection is not in place.

This Order is separate from the now expired eviction moratorium in Section 4024 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and any other eviction moratoriums afforded to federally insured or guaranteed loans.

**EM-CDC 2. Do PHAs, landlords, Tribes or TDHEs have to notify residents of the CDC Order and Declaration? (Updated 11/18/20)**

A: While the Order does not mandate resident notification, HUD strongly encourages PHAs, landlords, Tribes or TDHEs to notify their residents that the CDC eviction moratorium is in place and that execution of the declaration referenced in the Order is necessary to be covered by the CDC order. In addition, HUD strongly recommends that PHAs, landlords, Tribes or TDHEs who are notifying residents of termination while the Order remains in effect document that they have informed the resident of the protections available to them under this Order. PHAs, landlords, Tribes or TDHEs should also review their state or local laws, as some may have different notification requirements regarding the moratorium and providing the Declaration to residents. In an effort to assist with resident notification, PIH provided PHAs, Tribes and TDHEs with an eviction moratorium flyer to help address resident concerns regarding rent and the moratorium. Distribution of the flyer can be through various methods at the discretion of the PHA, Tribe or THDE, for example, e-mail, mail, or posting on a unit door. If practicable, PHAs, Tribes and TDHEs could also post in public areas of the apartment building (lobby, laundry, meeting rooms), post on their webpages and social media, and/or include in neighborhood community flyers.

**EM-CDC 3. Can residents who are “covered persons” be evicted for reasons other than not paying full rent?**

A: Covered persons may still be evicted for reasons other than not paying full rent or making a full housing payment. The Order does not prevent covered persons from being evicted for:

- (1) engaging in criminal activity while on the premises;
- (2) threatening the health or safety of other residents;
- (3) damaging or posing an immediate and significant risk of damage to property;
- (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or

(5) violating any other contractual obligation of a tenant's lease, other than the timely payment of rent or similar housing-related payment (including nonpayment or late payment of any fees, penalties, or interest).

**EM-CDC 4. During the CDC eviction moratorium, do covered persons still owe rent to their PHA, landlord, Tribe or THDE?**

A: Yes. Covered persons still owe rent to their PHA, landlord, Tribe or THDE. The Order halts residential evictions only temporarily. Covered persons still must fulfill their obligation to pay rent and follow all other terms of their lease and rules of the place where they live. Covered persons must use best efforts to make timely partial payments that are as close to the full payment as their individual circumstances permit, considering other nondiscretionary expenses. When the Order expires, a covered person will owe their landlord any unpaid rent and any fees, penalties, or interest as a result of their failure to pay rent on a timely basis during the period of the Order.

The CDC eviction moratorium differs from the CARES Act eviction moratorium in this regard: fees for nonpayment of rent from March 27, 2020 – July 24, 2020 could not be charged.

HUD encourages PHAs, landlords, Tribes and THDEs to consider entering into repayment agreements for all outstanding payments with residents facing financial difficulties during the COVID-19 National Emergency.

**Resident Declaration:**

**EM-CDC 5. How does a HUD-assisted resident use this protection and who has to sign the declaration? (Updated 11/18/20)**

A: A resident must provide and complete and signed [declaration](#) to their PHA, landlord, Tribe or TDHE, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. The declaration may be signed and transmitted either electronically or by hard copy. Each adult listed on the lease, rental agreement, or housing contract should complete the declaration. In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of other adult residents party to the lease, rental agreement, or housing contract at issue. If possible, HUD recommends residents send the signed declaration using a method that provides them a time-stamped receipt, such as via email, and that residents keep a copy of the signed declaration for their records. For HCV participants, the resident may also provide the Declaration to the PHA to ensure that family's voucher assistance continues (see [EM-CDC 14](#) for more information on HCV participants).

**EM-CDC 6. Has the CDC provided a declaration form that eligible individuals can complete and submit to their PHA, landlord, Tribe or TDHE? (Updated 11/18/20)**

A: The CDC has issued a [declaration](#) form that is compliant with the Order. CDC recommends that eligible persons use this declaration form. The declaration form is available on the CDC website: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>. Translated versions of the declaration are posted on HUD's website, available [here](#).

Residents are not obligated to use the CDC form. Any written document that an eligible individual presents to their PHA, landlord, Tribe or TDHE will comply with the Order, as long as it contains the same information as the CDC declaration form.

All declarations, regardless of the form used, must be signed, and must include a statement that the covered person understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration.

In addition, residents are allowed to use a declaration translated into other languages. Even though declarations with other languages may satisfy the requirement that a covered person must submit a declaration, the CDC cannot guarantee that they in fact do satisfy the requirement. However, declarations in languages other than English are compliant if they contain the information required to be in a declaration, are signed, and include a statement that the covered person understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration. HUD has made translated versions of the declaration available on [its website](#); these translated versions satisfy the CDC requirements.

**EM-CDC 7. The CDC Order requires residents to sign the Declaration certifying that they have *“used best efforts to obtain all available government assistance for rent or housing.”* Since HUD-assisted residents are already receiving government assistance, what can HUD-assisted residents consider to certify for this requirement? (Updated 11/18/20)**

A: HUD-assisted residents may consider the fact of their participation in a rental assistance program when determining whether they have made their best effort to obtain government assistance. HUD-assisted residents in the HCV and Public Housing program may also consider whether they submitted a request to the PHA to review their current income and adjust the total tenant payment to reflect a change in income. Under the CDC Order, it is the resident's responsibility to certify that the information is truthful, as any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

**EM-CDC 8: The CDC Order requires residents to sign the Declaration certifying that they are:**

- *“...unable to pay their full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary out-of-pocket medical expenses” and*
- *“...using best efforts to make timely partial payments that are as close to the full payment as their circumstances may permit, taking into account other nondiscretionary expenses.”*

**In the HCV and Public Housing Program, a resident can request an interim reexamination to adjust their rent downward for a change in income or expenses and a resident can also request a minimum rent hardship exemption. With these options available, how is this certification applicable to HCV and public housing residents? (New)**

A: Although HCV and public housing residents have mechanisms in place to adjust rent downward, before a resident signs the Declaration, he/she must determine whether he/she is using best efforts to pay full or partial rent owed. Regardless of whether an interim reexamination or a minimum rent hardship exemption is requested, the resident remains responsible for certifying to truthful information in the Declaration.

**EM-CDC 9. Is it the responsibility of the PHA, landlord, Tribe, or TDHE to verify the truthfulness of the certifications?**

A. PHAs, landlords, Tribes, or TDHEs are not required to verify the certifications in the declaration. The Order states that residents must make a certification to the truthfulness of the information provided in the declaration under the penalty of perjury.

**EM-CDC 10. If a PHA, landlord, Tribe or TDHE initiated an eviction for nonpayment of rent before the effective date of the CDC Order but has not completed the eviction, does the CDC Order apply?**

A: Yes. Any evictions for nonpayment of rent that were initiated prior to September 4, 2020, but have yet to be completed, are subject to the Order. Any resident who qualifies as a “covered person” and is still present in a rental unit is entitled to protections under the Order. Any eviction that occurred prior to September 4, 2020 is not subject to the Order.

**EM-CDC 11. For the HCV or Public Housing Program, can PHAs use CARES Act funds to pay a tenants’ rent to owners or offer debt forgiveness to prevent families from being evicted for non-payment after the CDC eviction moratorium expires? (New)**

A: PHAs are not permitted to directly pay tenant’s rent or to offer debt forgiveness programs with CARES Act funds, public housing Operating or Capital Funds or HCV funds. However, PHAs are encouraged to work with their localities to link families with local partners and agencies that may be able to help household access resources. For example, eviction prevention resources, agencies with expertise in employment and unemployment, nonfederal emergency

assistance programs, utility companies, and/or internet companies. For the HCV program, PHAs are allowed to provide Owners with Retention Fees or other incentive fees that may assist in retaining a resident who may, for example, need to enter into a repayment agreement for unpaid rent; see questions [EM-CDC 16](#) and EU52.

### **Public Housing Program:**

**EM-CDC 12. After the CDC eviction moratorium expires, what can the PHA do to prevent evictions of public housing families that have fallen behind on rent? (New)**

A: HUD strongly encourages PHAs to work with families and determine if an interim reexamination is appropriate if none was requested by the family. PHAs should also consider retroactive rent adjustments for the families, to the extent the circumstances warrant it and the PHA policies allow for it. In addition, HUD strongly encourages PHAs to offer repayment agreements so families can continue to be housed after the CDC eviction moratorium expires.

Lastly, on July 1, 2020, the Department provided PHAs with an “[Eviction Prevention and Stability Toolkit](#).” Although the toolkit was developed in response to the now expired CARES Act eviction moratorium, several attachments in the toolkit can be referenced, since it was built on innovative practices from PHAs around the country and existing HUD guidance. For example, PHAs can permit repayment agreements and update repayment agreement policies, adopt policies for retroactive interim reexaminations, provide direct outreach to households behind on rent, review policies on minimum rent and financial hardship exemptions, and position residents to overcome common challenges and provide residents with a proactive alignment to local resources.

### **Housing Choice Voucher (HCV) Program:**

**EM-CDC 13. Do PHAs have to notify HCV landlords of the CDC Order and Declaration? (New)**

A: HUD strongly encourages PHAs to notify the HCV landlords that the CDC eviction moratorium is in and that it differs from the now expired CARES Act eviction moratorium.

**EM-CDC 14. Can the PHA terminate a voucher participant family’s assistance if they invoke eviction protections by signing the Declaration and therefore cannot pay their portion of the rent during the CDC eviction moratorium (September 4, 2020 – December 31, 2020)? (New)**

A: Normally, the PHA could terminate a family’s voucher assistance if the family owes their landlord rent. However, during the CDC eviction moratorium, for families that invoke eviction protections, PHAs shall not terminate assistance for nonpayment of rent. It is important for voucher program participants to report changes in income to the PHA so their rent portion can be adjusted based on their current income. This will help families keep up with their rent and avoid facing eviction and/or losing assistance after the CDC eviction moratorium ends on December 31, 2020.

**EM-CDC 15. What should a Section 8 Housing Choice Voucher holder do if he/she believes they are being wrongfully evicted by their landlord during the CDC eviction moratorium? (New)**

A: If a landlord attempts to evict a Housing Choice Voucher holder for nonpayment of rent during the CDC eviction moratorium, the resident could reach out to the PHA for assistance. The resident could also contact a local legal aid organization for legal representation. The resident, their representative, or the PHA should inform the landlord that the eviction is against the law if CDC eviction protections have been invoked and it is based on nonpayment of rent between September 4, 2020 – December 31, 2020. In addition, HCV landlords should also be reminded that they must follow the Order otherwise there could be the following penalties: under 18 U.S.C. §§ 3559 and 3571, 42 U.S.C. § 271, and 42 C.F.R. § 70.18: (1) an organization violating the CDC Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. These penalties are criminal in nature and are determined by a court of law; and (2) under the Order, the U.S. Department of Justice may initiate court proceedings as appropriate seeking imposition of these criminal penalties.

**EM-CDC 16. After the CDC eviction moratorium expires, what can the PHA do to prevent evictions of HCV families that have fallen behind in rent? (New)**

A: In an effort to prevent evictions for non-payment of rent, the PHA could: (1) work with families and determine if an interim reexamination is appropriate if none was requested by the family, (2) process a retroactive interim reexamination if the family had a decrease in income (see FAQ OC14 for additional information on retroactive interims), (3) encourage an owner to enter into a repayment agreement for the unpaid rent, and/or (4) use CARES Act Administrative fees to offer a retention incentive to owners who, as an alternative to filing the eviction, are willing to work with the family and/or PHA (for example, entering into a repayment agreement with the family, providing time for the PHA to update its interim reexamination policy or retroactive interim reexaminations, etc.). HUD strongly encourages owners enter into repayment agreements so that families may continue to be housed after the CDC eviction moratorium expires, and the family can come back into compliance with the terms of their tenancy.

On July 1, 2020, the Department provided PHAs with an “[Eviction Prevention and Stability Toolkit](#).” Although the toolkit was developed in response to the CARES Act eviction moratorium expiration, several attachments in the toolkit can be referenced, since it was built on innovative practices from PHAs around the country and existing HUD guidance. For example, PHAs can encourage HCV landlords to enter into repayment agreements, adopt policies for retroactive interim reexaminations, work with HCV landlords to provide direct outreach to households behind on rent/assist residents in reporting income changes, review policies on minimum rent and financial hardship exemptions, and provide residents with a proactive alignment to local resources.

## **Section 8 Moderate Rehabilitation (Mod Rehab) Program:**

### **EM-CDC 17. Do PHAs have to notify landlords of the CDC Order and Declaration? (New)**

A: PHAs should notify the Mod Rehab landlords that the CDC eviction moratorium is in place and it differs from the now expired CARES Act eviction moratorium.

## **Indian Housing Programs:**

### **EM-CDC 18. Can Tribes or TDHEs use IHBG or IHBG-CARES funds to pay a tenant's rent to their private landlords to prevent families from being evicted for non-payment after the CDC eviction moratorium expires? (New)**

A: Yes. IHBG and IHBG-CARES funds can be used to provide rental assistance to IHBG-eligible families. This includes providing rental payments to landlords of residents living in privately-owned housing to prevent them from being evicted after the CDC eviction moratorium expires, including paying back-rent.

### **EM-CDC 19. Can Tribes or TDHEs offer rent forgiveness to families residing in housing owned or operated by the Tribe or TDHE to prevent families from being evicted for non-payment of rent after the CDC eviction moratorium expires? (New)**

A: Yes. Tribes and TDHEs that own or operate housing assisted under the IHBG program can choose to forgive rents owed by assisted families to prevent them from being evicted after the CDC eviction moratorium expires. Tribes and TDHEs that choose to forgive rents may not draw down the equivalent amount of unrealized program income to offset any reduction in program income from reduced rent receipts. However, Tribes and TDHEs can use their IHBG and IHBG-CARES funds to maintain normal operations, including covering operating expenses that would have otherwise been paid for with rent receipts/program income. For more information, please see the COVID-19 FAQs previously published by ONAP available [here](#).

### **EM-CDC 20. Does the CDC Order impact homeownership programs like the Section 184 and Section 184A programs? (New)**

A: The Order expressly states that it does not apply to foreclosures on home mortgages. Homeowners participating in the Section 184 and Section 184A programs who are behind on their mortgage should contact their lender and a HUD-Approved certified foreclosure counselor to discuss options available to them.