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OFFICE OF PUBLIC & INDIAN HOUSING

Updates:

PIH Notice 2020-33,
CDC Eviction Moratorium,
Remote Hearings, Briefings & Meetings

December 1, 2020



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Agenda

PIH Notice 2020-33: COVID-19 Statutory and Regulatory Waivers and Alternative Requirements, REV 2

CDC Eviction Moratorium: FAQs & Resident Flyer

PIH Notice 2020-32: Remote Hearings and Remote Voucher Briefings



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PIH Notice 2020-33

The President signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, into law on March 27, 2020.

- Provides broad waiver authority and flexibilities to allow PIH and our partners to continue the mission of providing decent, safe, and affordable housing.
- Initially implemented through PIH Notice 2020-05 published on April 10, 2020 and revised through PIH Notice 2020-13 published on July 2, 2020.

This second revision:

- Restates all waivers and alternative requirements previously established in prior Notices, including waivers that have expired or will expire on December 31, 2020.
- Incorporates the waivers and alternative requirements for Mainstream vouchers and the Mod Rehab Program which were published separately in PIH Notices 2020-20 and 2020-22.
- Adds 5 new waivers and alternative requirements and revises the alternative requirement for 2 previously established waivers.
- Extends the availability periods of most waivers until June 30, 2021.
- Makes no additions or extensions to any of the ONAP waivers and alternative requirements.



Reminders—

- The use of waivers is at the discretion of the PHA.
- PHAs may choose to apply all, some or none of the waivers.
- If a waiver is adopted and has an alternative requirement, it should be read carefully as some alternative requirements are written simply as a “floor” and others are mandatory.
- PHAs must post publicly or otherwise make available to the public a list of all waivers and alternative requirements the PHA chooses to apply in addition to notifying affected residents and owners of the impact of applicable waivers and alternative requirements.



Period of Availability Extensions in PIH Notice 2020-33

- Extends the period of availability to **June 30, 2021** for most Public Housing and HCV waivers and alternative requirements that previously ended on December 31, 2020.
 - The availability period for CARES Act supplemental funding and use of FY20 appropriations to prevent, prepare for and respond to COVID is extended through December 31, 2021.
- HUD will resume issuing **PHAS and SEMAP scores** beginning with PHAs with a FYE of June 30, 2021.
 - For PHAS, the scores will be advisory only for four consecutive quarters ending with PHAs with fiscal years ending on March 31, 2022.
- Extends both the **obligation and expenditure end dates for all Capital Fund grants** that were open on April 10, 2020, by an additional 6 months for a total of 18 months from the obligation and expenditure end date in LOCCS that was in effect on April 10, 2020.
- The period of availability to informally adopt changes to the **PHA Administrative Plan or ACOP** now ends on March 31, 2021. The PHA must formally adopt such revisions no later than June 30, 2021.



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New Waivers Provided in PIH Notice 2020-33

PH-13: Over-Income Limit: Termination Requirement

Waiver Summary	Reference
<ul style="list-style-type: none">• Waives the requirement that a family whose income has exceeded the over-income limit for the locality for two consecutive years be terminated within 6 months of the third income determination or pay an alternative rent as established through rulemaking.• HUD has not yet published a final rule that implements alternative rent options; PHAs are therefore not yet able to calculate alternative rents and would be required to terminate over-income families.• Alternatively, a family whose income has exceeded the over-income limit may remain public housing households instead of being terminated and will be charged the applicable FMR as the family's monthly rental amount.• The period of availability ends June 30, 2021.	<p>Section 16(a) of the USHA of 1937 as amended by section 103 of HOTMA</p>



New Waivers Provided in PIH Notice 2020-33

PH-14: Annual Choice of Rent	
Waiver Summary	Reference
<ul style="list-style-type: none">• Waives the requirement that a family may not be offered a choice of flat or income-based rent more than once a year.• Alternatively, a PHA may give families no more than two opportunities to choose between a flat rent and an income-based rent within the same one-year period.• The period of availability ends June 30, 2021.	24 C.F.R. § 960.253



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New Waivers Provided in PIH Notice 2020-33

12d: Section 6(j) 1- and 2-Year Substantial Improvement Requirement

Waiver Summary	Reference
<ul style="list-style-type: none">For PHAs designated as PHAS troubled prior to the date of the Notice that have not received a PHAS assessment for the first full fiscal year after the initial notice of the troubled designation, HUD will:<ul style="list-style-type: none">(1) evaluate the 1-year substantial improvement benchmark based on the first released score for fiscal years ending on or after June 30, 2022; and,(2) toll the evaluation of the 2-year recovery benchmark to the next sequential fiscal year.The period of availability for this waiver and alternative requirement: (1) is effective on the date of this Notice; and (2) will continue through June 30, 2023, at which time HUD will reevaluate any additional impacts of this waiver on any PHA in the process of being evaluated.	Section 6(j)(3)(B)(ii) of the USHA of 1937; 24 C.F.R. § 902.75(d)



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New Waivers Provided in PIH Notice 2020-33

11b: SEMAP	
Waiver Summary	Reference
<p><u>b-1: SEMAP Field Office Confirmatory Review</u></p> <ul style="list-style-type: none">• Allows field offices to perform remote SEMAP confirmatory review instead of an on-site confirmatory review before changing any rating from troubled to standard or high performer.• The period of availability ends on June 30, 2021.	24 C.F.R. §985.105(d)
<p><u>b-2: SEMAP Certification Timing</u></p> <ul style="list-style-type: none">• Waives the requirement for PHAs to submit an annual SEMAP certification in IMS-PIC within 60 days of FYE during the timeframe HUD is rolling over prior year scores.• The period of availability ends on June 30, 2021.	24 C.F.R. §985.101(a)



New Alternative Requirements in PIH Notice 2020-33

New Alternative Requirements for Previously Established Waivers

HQS-5: HQS Inspection

Requirement: Biennial Inspections

At a minimum, the PHA now must require the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question instead of conducting an initial inspection.

HCV-5: Absence from Unit

Requires that the PHA maintain documentation in the tenant file which explains the extenuating circumstances that caused the extended absence.

Important! *If a PHA previously adopted waivers HQS-5 and HCV-5, the newly added alternative requirement will only apply to actions taken under the waivers as of the date of this Notice. The PHA would need to update any applicable policies accordingly.*



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PIH Notice 2020-33

As a quick reference, the chart in Attachment I of the Notice provides an updated list of all waivers and availability periods:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-33pihnattch.pdf>



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COVID-19 Resources

For the latest FAQs & other COVID-19 resources:

https://www.hud.gov/program_offices/public_indian_housing/covid_19_resources

https://www.hud.gov/coronavirus/native_americans



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CDC Eviction Moratorium General Highlights

On September 4, 2020, the Centers for Disease Control (CDC) issued a Notice and Order to prevent the further spread of COVID-19.

- The Order is a temporary halt in residential evictions for **non-payment of rent** from **September 4, 2020** through **December 31, 2020**.
- This Order is separate from the now expired eviction moratorium in Section 4024 of the CARES Act.
- The Order applies to all tenants in the country – assisted and non-assisted renters who are subject to eviction for nonpayment of rent and who submit the Declaration referenced in the Order to their PHA, landlord, tribe or TDHE.
- Residents do not have to use the exact Declaration that was provided as an attachment to the Order.
- The Order published in the Federal Register at 85 FR 55292 is available at:
<https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19>



CDC Eviction Moratorium Published Documents

CDC FAQs

- 23 FAQs published October 9, 2020:
<https://www.hud.gov/sites/dfiles/Main/documents/EvictionMoratoriaOrderFAQs.pdf>

PIH FAQs (applicable to PHAs, landlords, tribes and TDHEs)

- 9 FAQs published October 19, 2020
- 11 additional FAQs published November 18, 2020
https://www.hud.gov/sites/dfiles/PIH/documents/HUD_FAQs_CDC_Order_1182020.pdf

Resident Flyer

- Explains the Order and the steps a resident needs to take to invoke CDC eviction protections for non-payment of rent
- Resident Flyer for PHAs & Landlords:
https://www.hud.gov/sites/dfiles/PIH/documents/OPHVP_CDC_Order_Tenant_Flyer.pdf
- Resident Flyer for Tribes & TDHEs:
https://www.hud.gov/sites/dfiles/PIH/documents/ONAP_CDC_Order_Tenant_Flyer_Published.pdf

Declaration

- English Version:
<https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>
- Translated Versions:
https://www.hud.gov/program_offices/public_indian_housing/covid_19_resources/resident_declaration_form-other_languages



CDC Eviction Moratorium Highlighting the CDC FAQs



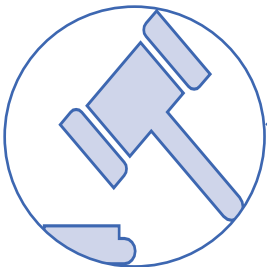
Evictions for nonpayment of rent initiated prior to September 4th are subject to the Order

- This means any resident who is present in the unit is entitled to protections.



Each adult on the lease *should* complete the declaration

- In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the household to submit the declaration on behalf of other residents on the lease.



Landlords can challenge the truthfulness of the resident's declaration in court

- This means the landlord cannot reject a declaration and the resident cannot be required to move until the eviction is presented in court.



CDC Eviction Moratorium Highlighting the PIH FAQs

The Order does not require resident notification, but HUD strongly encourages notification.

- PHAs, landlords, Tribes and TDHEs can use our resident flyer as notification.

A resident cannot be required to complete the Declaration.

- However, without it, residents will not have the CDC eviction protection.

For termination notices for nonpayment of rent that are issued:

- HUD strongly recommends that PHAs, landlords, Tribes and TDHEs document they have informed the resident of the protections available to them under the CDC moratorium.



CDC Eviction Moratorium Highlighting PIH FAQs (continued)

Residents should send the signed declaration using a method that provides a time-stamped receipt.

- For example, email or certified mail. Also, residents should keep a copy of the signed declaration for their records.

The declaration requires residents to certify that they have *“used best efforts to obtain all available government assistance for rent or housing.”*

- Residents could consider the fact of their participation in a rental assistance program. In addition, residents in the PH and HCV programs could also consider whether they submitted a request to the PHA to review their current income and adjust the TTP to reflect the change.

The declaration requires residents to certify that they have made their *“best effort to pay full or partial rent.”*

- Although PH and Section 8 programs are designed to adjust rent downward (interim reexam or min hardship), residents are still required to determine whether they have made their best effort to pay full or partial rent.



CDC Eviction Moratorium Highlighting PIH FAQs (continued)

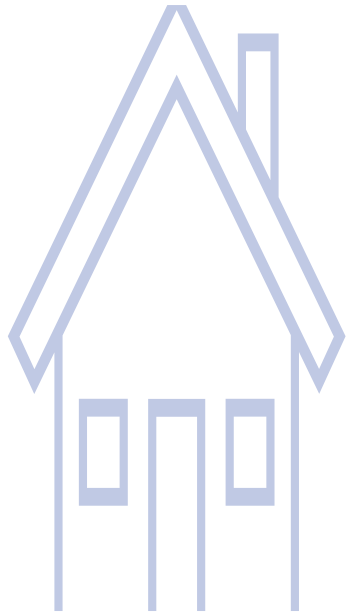
HCV and PH program FAQs are very similar to CARES Act Eviction Moratorium FAQs. In that:

- PHAs cannot offer a debt forgiveness program.
- HUD strongly encourages PHAs and landlords to enter into **repayment agreements** for past due rent after the CDC order expires.
- For HCV families that invoke eviction protections, PHAs shall not terminate assistance for nonpayment of rent.
- Tips are provided for HCV residents that believe they are being wrongfully evicted.
- Tips are provided to prevent evictions of HCV families that have fallen behind on rent.



CDC Eviction Moratorium Highlighting PIH FAQs (continued)

REMINDER



The Eviction Prevention and Stability Toolkit is still available!

Several attachments in the toolkit can be referenced, as the CDC moratorium is near expiration. The toolkit 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 for stability by providing a proactive alignment to **local resources**.

Link to the toolkit: https://www.hud.gov/program_offices/public_indian_housing/covid_19_resources#2



CDC Eviction Moratorium Highlighting PIH FAQs (continued)

Tribes and Tribally Designated Housing Entities Program FAQs

- IHBG and IHBG-CARES funds can be used to provide rental assistance to IHBG-eligible families.
- 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.
- The Order expressly states that it does not apply to foreclosures on home mortgages. Homeowners participating in the Section 184 and Section 184A who are behind on their mortgage should contact their lender and a HUD-Approved certified foreclosure counselor.



Remote Hearings and Remote Voucher Briefings

This Notice:

- Applies to all PHAs that choose to implement a remote environment for administrative hearings or voucher briefings
- Remains in effect post-COVID-19
- Provides guidance on:
 - The requirements that must be met to ensure equal opportunity and nondiscrimination for the remote hearing or remote briefing. Specifically:
 - ✓ Technology platform, reasonable accommodations and accessibility requirements for persons with disabilities
 - ✓ Requirements for persons with limited English proficiency (LEP)
 - Best practices to identify and resolve technology barriers prior to scheduling the remote hearing or remote briefing
 - Making the determination if a remote hearing or remote briefing can take place
 - Presenting documents prior to the remote hearing or remote briefing
 - Updating written policies



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Remote Hearings and Remote Voucher Briefings

Remote Hearing

- **Public Housing:** refers to the *informal hearing* for a denial of admission, the *informal settlement* of a grievance for a participant and the *grievance hearing* for a participant.
- **HCV:** refers to the *informal review* for denial of assistance and an *informal hearing* for a participant.
- **Mod Rehab:** refers to the *informal hearing* for denial of assistance or termination of assistance.

Remote Briefing

- **HCV:** refers to the *oral briefing* PHAs are required to provide to every new *HCV applicant*, including *PBV applicants* and the *TPV family briefings*.
- **Mod Rehab:** refers to the *briefing* PHAs are required to provide to every new Mod Rehab applicant.

This notice only applies to the activities listed above.



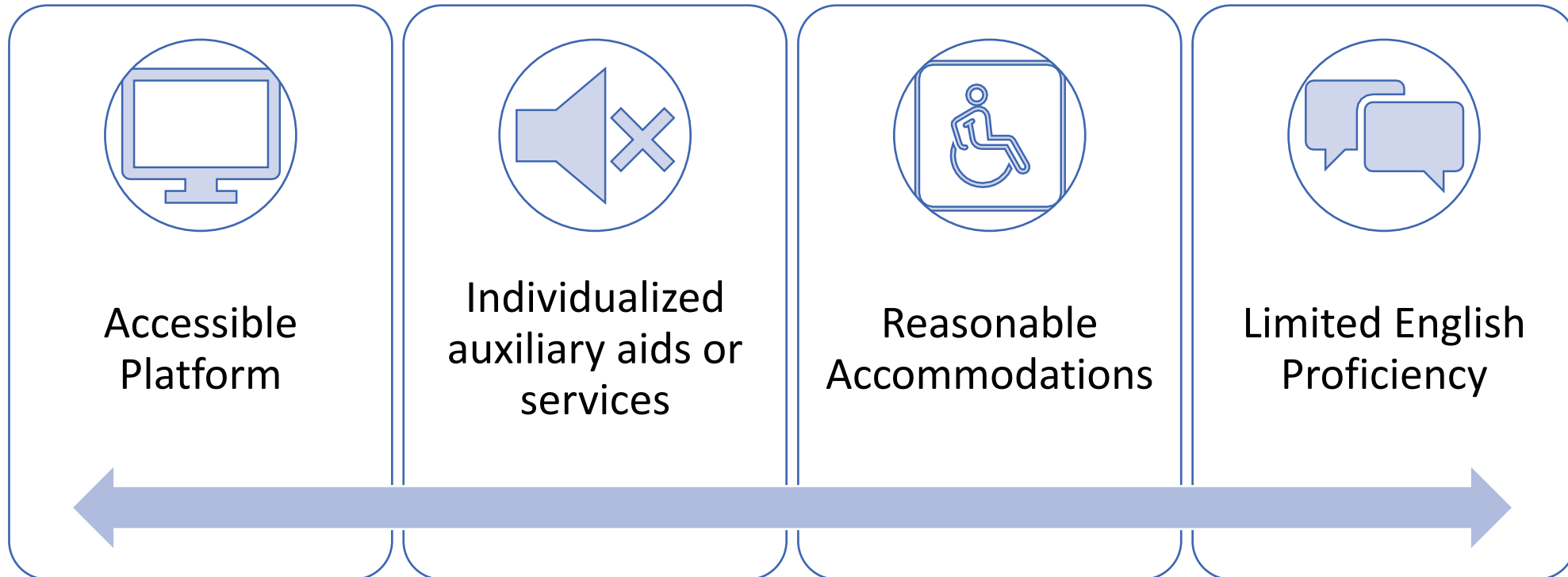
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Remote Hearings and Remote Voucher Briefings

Requirements for Disabled Persons and LEP Persons





Remote Hearings and Remote Voucher Briefings

- Identify and resolve technology barriers prior to scheduling the remote hearing or remote briefing.
 - ✓ Identify Barriers: Survey the family to identify barriers
 - ✓ Resolve Barriers: Depending on the barriers identified, several best practices are included in the notice that PHAs could consider to resolve a barrier.
 - ✓ Important! If the participant **does not** have **proper technology access** which will allow the individual to fully participate, then the remote hearing or remote briefing **should be postponed**, or an **in-person alternative must be provided**.
- HUD regulations require that the family be given the opportunity to examine, before the PHA hearing, any PHA documents that are directly relevant to the hearing. For voucher briefings, HUD regulations also require that an information packet is provided to the family.
 - ✓ This means materials presented must be provided to the individual or family prior to the remote hearing or remote briefing, and for TPV family briefings, materials may be submitted electronically to the HUD local office of Public Housing.



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Remote Hearings and Remote Voucher Briefings

Establish Written Procedures:

- Include all aspects of how the remote hearing or remote briefing will be conducted.
 - ✓ Procedures for conducting a remote hearing or remote briefing must meet accessibility and civil rights requirements for disabled persons and LEP persons.
- Explain how the documents will be presented prior to a remote hearing or remote briefing.
 - ✓ Reminder! Electronic information stored or transmitted prior to the remote hearing or remote briefing must be secure per PIH Notice 2015-06.
- The procedures should be readily available to the public.
 - ✓ Public Housing: Update PHA's Grievance Procedure
 - ✓ HCV: Update PHA's Administrative Plan



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Remote Hearings and Remote Voucher Briefings

Voucher Briefing Considerations:

- There is no explicit requirement for the oral briefing to be held in person. However, if the briefing is remote, PHAs must provide an opportunity for remote briefing participants to ask questions.
- Best Practices:
 - ✓ Review voucher obligations with families at reexamination.
 - ✓ Have PHA staff reach out directly to tenants by phone after the briefing.
 - ✓ Consider the impact of families attending briefings remotely on other program functions.



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Questions?

Waiver FAQs

PIH-covidwaivers@hud.gov

COVID FAQs

PIH-COVID@hud.gov

ONAP FAQs

Codetalk@hud.gov