

CHAPTER 3: ELIGIBILITY FOR ADMISSION

3-1. INCOME LIMITS

a. POLICY

- (1) PHAs must use the HUD-prescribed income limits. PHAs may not set their own income limits or modify the HUD-prescribed income limits.
- (2) HUD usually sets the lower income limits at 80% of the median income for the area, adjusted for family size. HUD may establish a level higher or lower than 80% because of prevailing construction costs or unusually high or low family incomes in the area.
- (3) HUD usually sets the very low income limits at 50%, of the median income for the area, adjusted for family size. HUD may establish a level higher or lower than 50% because of unusually high or low family incomes in the area.

b. DISCUSSION

- (1) Because income limits vary from area to area, an applicant may be eligible at one PHA but not at another.
- (2) Because the number of family members is a factor in setting the income limits, a change in the number of family members may affect an applicant's eligibility.
- (3) Annual income, not adjusted income, is used in determining whether an applicant is eligible. While a family may be entitled to large deductions in determining its rent, no deductions are permitted in determining the family's eligibility.
- (4) The lower income limits and very low income limits are set at the same level for Section 3 as they are for public housing.

c. HUD RESPONSIBILITIES

HUD sets income limits for each county or Metropolitan Statistical Area (MSA). HUD updates the income limits from time to time and advises PHAs of the new figures.

The 80% of median income and 50% of median income figures are derived for a family of four and adjusted for other size families.

d. REFERENCES

U.S. Housing Act of 1937, as amended, Sections 3(a) and 3(b)(1) and (2)

24 CFR 913.103 - 913.105, and definitions in 913.102 and 913.106

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3-2. INCOME LIMIT RESTRICTIONS

a. POLICY

- (1) PHAs must only admit applicants which have income at or below the lower income limits. (There is a diagram in Appendix 1.)
- (2) PHAs must use the lower income limits in admitting applicants to projects that reached DOFA (Date of Full Availability) before October 1, 1981 ("old projects").
- (3) PHAs must use the very low income limits in admitting applicants to projects that reached DOFA on or after October 1, 1981 ("new projects") unless HUD has approved an exception.
- (4) There is no restriction on the number of lower income families which are not very low income that a PHA can admit to its "old projects".
- (5) The income limit restrictions apply only at admission. Federal law does not require income limits for continued occupancy.
- (6) A family may not be admitted to a public housing program from another assisted housing program (e.g., Section 8 Existing) or from a public housing program operated by another PHA without meeting the income limit restrictions applicable to the PHA.
- (7) If a project is acquired for public housing through acquisition, tenants already living there must meet the income limit requirements.
- (8) The income limit restrictions do not apply to a family which needs or wants to transfer to another dwelling unit within the public housing program at a particular PHA.

- (9) The income limit restrictions do not apply to someone already in the program who has to enter into a new lease.

b. DISCUSSION

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- (1) An applicant must have income at or below the lower income limits in order to be put on the waiting list and in order to be admitted to public housing. If the PHA has only "new projects," an applicant must have income at or below the very low-income limits in order to be put on the waiting list and in order to be admitted to public housing unless HUD has approved an exception.
 - (a) A family may not be put on the waiting list with income above the applicable income limit with the expectation that the applicant's income would be below the applicable income limit by the time of admission.
 - (b) If a family's income is at or below the income limit the applicant is put on the waiting list but goes above the income limit before admission, the family may not be admitted.
- (2) While there is a maximum amount of income an applicant may be eligible, there is no minimum amount.
- (3) A lower income family which is not very low income may qualify of the PHA's projects (an "old project") but not for (a "new project"). The family may be put on the list and may remain on the waiting list as long as the any project for which the family would qualify.
- (4) For projects which have reached DOFA in stages, and therefore have more than one DOFA, the earliest DOFA is used for determining whether the entire project is an "old project" or a "new project".
- (5) A project that reached DOFA before October 1, 1981 which is put under a new ACC on or after October 1, 1981 because it is undergoing extensive modernization is still considered an "old project."
- (6) HUD regulations provide that not more than 25% of

the dwelling units that become available in "old projects" may be leased to lower income families which are not very low-income families. The 25% applies nationwide, not to a particular PHA or project. Since it is highly unlikely that the 25% figure will be reached nationwide, HUD has implemented these provisions for all "old projects" by placing no restrictions on the number of lower income families which are not very low income.

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- (7) HUD regulations provide that not more than 5% of the dwelling units that become available in "new projects" may be leased to lower income families which are not very low income families. The 5% applies nationwide, not to a particular PHA or project. HUD has implemented these provisions for all "new projects" by not permitting the admission of any lower income families to "new projects" unless HUD has approved an exception. The 5% authority is used for approving the exceptions.
- (8) An exception is needed in order for a PHA to admit any lower income family which is not very low income to a "new project". Some reasons for getting an exception include, but are not limited to:
 - (a) Need for more applicants to deal with vacancy problems;
 - (b) Local commitment to attaining occupancy by families with a broad range of incomes;
 - (c) Need for higher income families for a homeownership project; and
 - (d) Need to avoid displacing lower income families from a project acquired by the PHA.

c. PHA PROCEDURES - Exceptions

PHAs must send a request for an exception to the local HUD office. The PHA must indicate the reason for the request (e.g., to deal with a vacancy problem), the project involved, and the number of admissions sought under the exception. The PHA should also provide any other information which will help HUD in evaluating the situation.

d. HUD RESPONSIBILITIES - Exceptions

The local HUD office will review the exception request and forward it, along with its recommendation, through the HUD Regional Office to Headquarters.

The local HUD office will advise the PHA whether Headquarters approves or turns down the request. If it has been approved, the local HUD office will indicate the project involved, the number of families that can be admitted under the exception, and any restrictions that may apply. The local HUD office will also ask the PHA to keep a record of its use of the exception authority.

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e. REFERENCES

U.S. Housing Act of 1937, Section 16

24 CFR 913.103, 913.104, 913.105

3-3. QUALIFYING AS A FAMILY

a. POLICY

- (1) Only applicants who constitute a family can become public housing tenants.
- (2) The PHA determines whether an applicant is a family. However, in addition to groups of persons who would ordinarily constitute a family, such as a couple with or without children or a parent and child, the PHA must include persons covered by the HUD definition.
- (3) The HUD definition of family covers elderly families and certain non-elderly single persons. (There is a diagram in Appendix 2.)
- (4) PHAs may not modify the HUD definitions dealing with elderly families or non-elderly single persons.
- (5) PHAs may, but are not required to, house more than one family in a public housing unit (See 6-2, Shared Housing).

b. DISCUSSION

- (1) PHAs should develop a written definition of family which describes when two or more nonelderly persons constitute a family.

(2) Child Custody

- (a) If an applicant claiming a child as a family member does not have full custody of the child, or if the child lives only part of the time with the applicant, the PHA must make a determination whether to count the child as part of the applicant's family. The PHA may consider custody and the amount of time the child spends with the applicant in making this decision.

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- (b) If the child does not currently reside with the applicant, the PHA may consider the child to be part of the applicant's family if there is evidence that the child would reside with the applicant if the applicant were admitted to public housing.
- (c) The same child cannot be counted more than once (i.e., to make two single applicants each qualify as a "family").
- (d) If the child is determined to be part of the family, the child is a full family member and has the same status in determining income and deductions that any other child would have.

(3) Foster Children

- (a) Families are permitted to have foster children live with them in public housing if the PHA determines that it will not result in overcrowding.
- (b) The PHA may, but is not required to, consider foster children in determining that a single applicant constitutes a family. The PHA would have to be consistent in its determination.

(4) Care Attendants

- (a) When necessary, families may have care attendants live with them in public housing.
- (b) The PHA should consider a person to be a care attendant only if the person:
 - o is determined by the PHA to be essential to the care and well being of a family

member;

- o is not obligated to support the family member; and

- o would not be living in the unit except to provide the supportive services.

- (c) A care attendant would not be listed on the lease and could not become a remaining family member for continued occupancy purposes. The income of a care attendant would not be counted in determining the family's income.

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c. REFERENCES

U.S. Housing Act of 1937, Sections 3(a), 3(b)(3)

24 CFR 912.2

3-4. ELDERLY FAMILY

a. POLICY

- (1) PHAs must consider an applicant to be an elderly family if the head of the household or the spouse or the sole member is:

- (a) at least 62 years old;

- or

- (b) disabled;

- or

- (c) handicapped.

- (2) PHAs must also consider households composed of two or more persons each of whom is at least 62 years old, disabled, or handicapped to be an elderly family.

- (3) The PHA may not establish a minimum age (like 50 or 55) for a handicapped or disabled person to qualify as an elderly family.

- (4) An elderly family may include one or more live-in care attendants, as necessary.

b. DISCUSSION

- (1) Definitions

- (a) A person is disabled if the person has a disability defined in:

- o Section 223 of the Social Security Act or
- o Section 102 (b)(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970.

These definitions can be found in Appendix 3.

- (b) A person is handicapped if the person has a physical or mental impairment which:

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- o is expected to be of long-continued and indefinite duration;
and
 - o substantially impedes his or her ability to live independently;
and
 - o is of such a nature that such ability could be improved by more suitable housing conditions.
- (2) The PHA may determine whether to permit single persons who are qualifying as an elderly family on the basis of age to be put on the waiting list before reaching age 62. If the PHA decides to permit it, the policy must be uniform (e.g., any otherwise qualified single applicant who is at least 61 must be put on the waiting list). The PHA must make sure that any single person who is qualifying on the basis of age and is not yet 62 is not admitted before reaching that age.
 - (3) If a member of the household other than the head or spouse is over 62, disabled, or handicapped, the household does not qualify as an elderly family. The following are not elderly families:
 - (a) A three-generation family consisting of a grandmother, mother, and daughter. The mother is the head of household and the grandmother is 70.
 - (b) A mother and her 17-year old son. The son is handicapped.

(While neither would be an elderly family, both of these households would qualify as a family, however.)
 - (4) There is significant overlap in the definitions of disabled and handicapped. A number of people may

qualify under both. This does not make them any more of an elderly family.

While it is not usually a practical concern, the emphasis in the social security definition of disabled is on "inability to engage in any substantial gainful activity". Therefore, "disabled" may indicate difficulty working. The emphasis in the definition of handicapped is on "substantially impedes his or her ability to live independently". Therefore, "handicapped" indicates difficulty living independently.

- (5) The PHA may consider an applicant receiving social security disability benefits or supplemental security income (SSI) disability benefits to be disabled under HUD's definition.

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- (6) An applicant receiving veterans disability benefits does not necessarily qualify as disabled under HUD's definition.
- (7) An applicant who is not receiving disability benefits or whose disability benefits have been discontinued may or may not qualify under the HUD definitions of disabled and handicapped. The PHA would have to consider other pertinent factors in determining whether the applicant would qualify under HUD's definitions.
- (8) The presence of a live-in attendant does not, by itself, make a family an elderly family.
- (9) After admission, a household must continue to qualify as an elderly family at the time of the reexamination in order to get the benefit of the deduction for elderly families and in order to have medical expenses considered in determining rent.

These families would not be considered elderly at the time of the reexamination:

- (a) The 60-year-old widow of a man who was 65 when he died. They were public housing tenants at the time of his death.
 - (b) A disabled person who "recovers".
- (10) After admission, a handicapped or disabled person who "recovers" can remain in public housing, but is no longer considered an "elderly family".

c. REFERENCES

U.S. Housing Act of 1937, Sections 3(a) and 3(b)(3)
24 CFR 912.2

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3-5. SINGLE NON-ELDERLY

a. POLICY

- (1) Single persons who do not constitute an elderly family can qualify as a family if they are:
 - (a) displaced;
or
 - (b) the remaining member of a tenant family;
or
 - (c) other single persons, under limited circumstances ("Single Persons").
- (2) PHAs may not admit single persons who are not elderly, displaced, or the remaining member of a tenant family without HUD authorization. PHAs may request authorization to:
 - (a) Avoid displacing Single Persons from projects which the PHA is acquiring;
 - (b) Allow admission of Single Persons to projects the PHA is acquiring in cases where the project is unsuitable for occupancy by the elderly; or
 - (c) Fill long-standing vacancies.
- (3) PHAs may not establish a minimum age (like 50 or 55) for the admission of displaced persons or single persons to projects for the elderly.

b. DISCUSSION

- (1) Definitions
 - (a) A displaced person is someone displaced by government action or whose dwelling was extensively damaged or destroyed due to a disaster declared or formally recognized by the Federal government. This includes persons who lose their homes through urban renewal or because of a flood, hurricane, etc., where a Federal disaster was declared for their area.

- (b) A remaining member is a member of the family listed on the lease who continues to live in the public housing dwelling after all other family members have left.

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- (c) A Single Person is someone living alone or intending to live alone who does not qualify as an elderly family, a displaced person, or the remaining member of a tenant family.
- (2) Displaced persons include those who must leave their home when any level of government--Federal, state, or local--requires them to move. For example, a single person could be displaced as a result of urban renewal or because the local health department condemned the building where the single person was living.
 - (3) If the remaining member is a signatory to the lease, the person could continue in the program under that lease. If the person is named on the lease but did not sign it, the PHA would have to determine whether it would be willing to enter into a lease with the person. In making this determination, the PHA should consider such factors as the person's suitability for tenancy and his or her ability to uphold a lease (See Chapter 4).
 - (4) The PHA would have to adhere to its space standards (see paragraph 5-1) in dealing with a remaining member. This would often involve the PHA transferring the remaining member to a more suitable size or type of unit or type of project, according to the PHA's transfer policies.
 - (5) Housing Single Persons is a useful device for PHAs with vacancies in small units. It should only be considered when a PHA believes it has exhausted the demand for a particular project from other eligible families.
 - (6) It is important for a PHA to maintain the same high standards for the selection of Single Persons as it does for its other applicants.
 - (7) Although Single Person occupancy is usually thought of as a device for filling efficiency or one-bedroom units, a PHA may fill larger units with Single Persons on a shared housing basis.

c. PHA PROCEDURES

To request authorization to admit Single Persons, the PHA writes to the local HUD office and:

- (1) Identifies the project(s) and the number of units involved;

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- (2) Explains why the authorization is being requested;
- (3) Where the reason is sustained vacancies, describes the efforts the PHA has made to attract other eligible applicants to the projects involved; and
- (4) Describes any changes the PHA proposes to make in its admission policies to allow admission of Single Persons.

d. HUD RESPONSIBILITIES

- (1) The HUD office establishes controls to make sure that the number of Single Persons that it authorizes to be housed within the jurisdiction of any PHA does not exceed 15 percent of the units in the public housing, Section 8 New Construction, Substantial Rehabilitation ' and Moderate Rehabilitation programs within that jurisdiction.
- (2) The above limits apply PHA by PHA and do not impose any limit on the number of Single Person admissions that can be authorized for any particular project or program.
- (3) The HUD office is responsible for reviewing and taking final action on PHA requests for authority to admit Single Persons.

e. MONITORING

Admission of Single Persons is monitored by the public housing occupancy audit and a review of Form HUD-50058.

f. REFERENCES

U.S. Housing Act of 1937, Section 3(b)3

24 CFR 912.2 and 912.3

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3-6. ALIENS

PHAs may not consider the citizenship or alien status of any applicant or member of the applicant's family in determining eligibility for public housing.

PHAs must disregard the provisions in 24 CFR 912 (Appendix 4) dealing with citizenship and alien status.