

**INTERIM**

Notice PIH 96-42 (HA)

Secretary's Representatives;  
State/Area Coordinators;  
Directors, Public Housing  
Divisions; Administrators,  
Area Offices of Native  
American Programs; All Public  
Housing and Section 8 Housing  
Agencies; All Indian Housing  
Authorities

Issued: June 20, 1996

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Waiver of the Minimum Rent Requirement

1) **Overview**

This Notice describes the authority given in the Appropriations Act of April 26, 1996, to waive the minimum rent requirement. The Act enables the Secretary of HUD, or a public housing agency or an Indian housing authority (collectively referred to as HAS), to waive the minimum rent requirement to provide a transition period for affected families. The term of the waiver may be retroactive but may not apply for more than three months for any family.

2) **Purpose**

The purpose of this Notice is to inform HAS of the enabling legislation, to clarify the role HAS can expect HUD to assume, and to clarify the options available to HAS.

3) **Programs Covered**

This Notice applies to the public housing program, the Indian Housing Rental Program (but not the Mutual Help Homeownership Opportunity Program), and the Section 8 certificate, voucher, and moderate rehabilitation programs.

4) **Action**

A) HAs have been granted full authority to issue waivers of the minimum rent for up to three months per family. In exercising this authority, no HUD approval or review is necessary. The Secretary believes that HAs are in the best position to evaluate and respond to individual circumstances and, therefore, should be the ones deciding when or whether to apply the waiver. The Secretary does not intend to use his waiver authority in the programs covered by this Notice.

B) HAs are not mandated to grant waivers, but where they determine families may be experiencing serious financial hardships as a result of the minimum rent, HAs should have policies allowing them to consider family circumstances in a consistent manner. HAs may consider granting waivers on a blanket basis for all families or, alternatively, on an individual basis considering the circumstances of each particular family.

C) Neither the length nor the period of waivers has to be the same for all families. For instance, one family may require a waiver for just the month of April, while a new family moving into assisted housing may need a waiver for July, August, and September.

D) HUD encourages HAs that were unable to implement the minimum rents on April 1, 1996, to use their retroactive authority beginning April 1, 1996. By implementing the rent waiver effective April 1, 1996, the HA will be in compliance with the law.

In no case may any family have the minimum rent waived for more than three months. In other words, each family receiving assistance on April 1, 1996, must pay the minimum rent for at least three of the six months between April and September. For example, in public housing, if the HA was not prevented by State law or its lease language from implementing on April 1, but for other reasons it did not implement until May 1, the HA should use one month of its waiver authority to cover the month of April. The HA would then have two months' authority remaining to use at its discretion, either on a blanket basis or a case-by-case basis. HAs that did implement on April 1 have the full three months available to them.

E) Use of this waiver authority will not negatively affect funds HAS receive from HUD.

F) Both the minimum rent requirement and the statutory ability to waive it are applicable only through September 30, 1996.

G) The options set out in HUD Notice 96-12 (HA), "Managing the Minimum Rent", continue to be available, and HAS are encouraged to continue exploring these options to address the needs of families facing serious financial hardships.

5) **Some Management Suggestions**

It would be a good idea for HAS to have written criteria to guide them in determining how the waiver will be applied, as well as a system that tracks how they use their waiver authority. We suggest one way to do this would be by making a file for "minimum rents." The file might include copies of notices, letters, or additional documents on the subject that the HA sent to residents or others. It could also include any records relating to minimum rents and how the HA exercises its waiver authority.

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Kevin Emanuel Marchman,  
Acting Assistant Secretary for  
Public and Indian Housing