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CHAPTER 5 ELIGIBILITY AND DENIAL OF ASSISTANCE

5.1 CHAPTER OVERVIEW

This chapter outlines HUD's requirements for participation in the housing choice voucher program and provides guidance to PHAs in establishing additional criteria. The PHA should strive for objectivity and consistency when applying these criteria to evaluate the eligibility of families who apply for assistance. PHAs must provide families applying for assistance the opportunity to explain their circumstances, furnish additional information if required, and receive an explanation from the PHA of the basis for any decision regarding their eligibility.

5.2 ELIGIBILITY REQUIREMENTS

There are four factors which affect eligibility:

- *Family definition.* Only applicants who meet a PHA's definition of family are eligible.
- *Income limits.* The household's annual income may not exceed the applicable income limit as established by HUD.
- *Citizenship status.* The applicant must meet the documentation requirements of citizenship or eligible immigration status.
- *Eviction for drug-related criminal activity.* Persons evicted from public housing or any Section 8 program for drug-related criminal activity are ineligible for assistance for at least three years from the date of the eviction.

The PHA's administrative plan must contain procedures for determining eligibility and denial of assistance.

Definition of Family

Program Requirements

Each applicant for assistance under the housing choice voucher program must meet the PHA's definition of family. Within guidelines provided by HUD, a PHA has discretion in its definition of what constitutes a family.

A family is either a single person or a group of persons and includes:

- A household with or without children. A child who is temporarily away from home due to placement in foster care should be considered a member of the family.

- An elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
- A disabled family, which means a family whose head, co-head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities; or one or more persons with disabilities with one or more live-in aides.
- A displaced family, which is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by federal disaster relief laws.
- A remaining member of a tenant family is a family member of an assisted tenant family who remains in the unit when other members of the family have left the unit.
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

PHA Discretionary Policies and Procedures

The PHA is responsible for defining family in its administrative plan. A PHA must include the HUD guidelines listed above in its definition.

Income Limits

HUD establishes income limits by family size for the area in which the PHA is located. The income limits are published annually in a HUD Notice and are generally effective on the date of publication. The income limits are available on the Internet at www.huduser.com at the “datasets” portal.

There are two income limits that are used to determine eligibility for the housing choice voucher program and a third that is used to ensure that the PHA has met its target for assisting the neediest families in the community.

The *very low-income limit*, which is set at 50 percent of the area median income, is the income limit generally used to determine initial program eligibility.

The *low income-limit*, set at 80 percent of the area median income, is used for families whose incomes fall above the very low-income limits but who are considered to be eligible for assistance because they are:

- Continuously assisted under the public housing or Section 8 programs;

- Non-purchasing households in the following homeownership programs: HOPE 1, HOPE 2, or other HUD-assisted multifamily home ownership programs covered under 24 CFR 284.173;
- Displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract.

A PHA may adopt local policies permitting the admission of additional categories of low-income families to address essential local housing needs.

HUD also publishes an *extremely low-income limit* that is set at 30 percent of the area median income. Each PHA must ensure that 75 percent of its admissions in each PHA fiscal year are families whose incomes are at or below the extremely low-income limit. Rules pertaining to “targeting” assistance to extremely low-income families are discussed under preferences in Chapter 4.

PHA DISCRETION IN
LOW-INCOME ELIGIBILITY

One example of a policy a PHA might adopt to permit admission of low-income families is a policy aimed at reducing total subsidy cost. For instance: two sisters want to live together. Individually they meet the very low-income limit. Together they exceed the very low income limit, but not the low-income limit. It will be cheaper to house them in a two-bedroom unit rather than in two one-bedroom units.

Applying Income Limits

Annual Income is compared to the applicable income limit to determine eligibility.

A family’s income must be within the income limits for the PHA’s jurisdiction at the time the family receives a voucher to search for housing. In addition, the family, when it is first admitted, must select a unit in an area in which the family meets the income limit for the housing choice voucher program.

A PHA with more than one set of income limits within its jurisdiction should use the highest income limit within its jurisdiction when determining initial household eligibility. However, a family whose income is above the limits in one or more areas of that PHA’s jurisdiction may lease only in an area where the family is income eligible when it executes its first lease assisted under the voucher program. Similarly, a family exercising portability when first admitted to the program must lease in an area where it is within the eligibility income limit.

Citizenship Status

Limits on Assistance to Non-Citizens

Eligibility for federal housing assistance is limited to U.S. citizens and applicants who have eligible immigration status. Eligible immigrants are persons who qualify for one of the immigrant categories in Table 5-1. Persons claiming eligible immigration status must present appropriate immigration documents, which must be verified by the PHA through the Immigration and Naturalization Service (INS).

Every applicant household for (and participant in) the housing choice voucher program must sign a certification for every household member either claiming status as:

- A U.S. citizen, or
- An eligible alien, or
- Stating the individual's choice not to claim eligible status and acknowledge ineligibility.

Declaration of U.S. Citizenship

For household members claiming U.S. citizenship, only a declaration signed by the household member (or in the case of a minor child, parent) is required by regulation.

However, PHAs are permitted to adopt policies requiring verification through presentation of one of the following:

- United States passport;
- Resident alien card;
- Registration card;
- Social Security card;
- Other appropriate documentation.

If it is the PHA's policy to require verification of citizenship, the PHA administrative plan must clearly state this policy.

Documentation of Eligible Immigration Status

Non-citizens claiming eligible immigration status must provide all of the following evidence:

- The signed declaration of eligible immigration status;
- One of the INS documents specified in the rule. (See Exhibit 5-1, *Non-Citizen Rule – Summary of Documentation Requirements.*);
- A signed verification consent form describing transmission and use of the information obtained.

Families in which all members are citizens or have eligible immigration status are eligible for full housing assistance.

An applicant family without any citizens or members with eligible immigration status is not eligible for assistance.

Non-citizen students are not eligible to receive housing assistance. When a non-citizen student is accompanied by a non-citizen spouse and/or minor children, those family members are also ineligible for assistance. However, citizen spouses and the children of the citizen spouse and non-citizen student are eligible for assistance. When a household includes eligible and ineligible

members it is treated as a “mixed family” as described below. A non-citizen student is defined as a bona fide student who:

- Is pursuing a course of study in this country;
- Has a residence in another country outside of the United States that the person has no intention of abandoning; and
- Is admitted to this country temporarily, solely for the purpose of pursuing a course of study.

Mixed Families

Families that include members who are citizens or have eligible immigration status and members who do not have eligible immigration status (or elect not to state that they have eligibility status) are referred to as “mixed families”.

A mixed family is eligible for prorated assistance. Prorated assistance is a calculation of subsidy based on the number of members who are citizens or have eligible immigration status.

CALCULATING PRORATED ASSISTANCE									
<p>Assistance for mixed families is calculated based on the percentage of eligible individuals in the household. There are five steps in the calculation.</p>									
<i>Steps</i>	<i>Example</i>								
1. Determine the gross rent for the unit (rent to owner plus the utility allowance).	<table style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">1. Rent to owner</td> <td style="text-align: right;">\$500</td> </tr> <tr> <td style="padding-right: 20px;">Utility allowance</td> <td style="text-align: right;">+ \$50</td> </tr> <tr> <td style="padding-right: 20px;">Gross rent</td> <td style="text-align: right; border-top: 1px solid black;">\$550</td> </tr> </table>	1. Rent to owner	\$500	Utility allowance	+ \$50	Gross rent	\$550		
1. Rent to owner	\$500								
Utility allowance	+ \$50								
Gross rent	\$550								
2. Determine the HAP, taking into consideration the income of all family members, regardless of their eligibility status.	2. HAP = \$300								
3. Divide the number of eligible family members (citizens and those with eligible immigration status) by the total number of members in the household.	<table style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">3. 3 eligible family members</td> <td></td> </tr> <tr> <td style="padding-right: 20px;">÷ 4 total family members</td> <td></td> </tr> <tr> <td style="padding-right: 20px;">.75 proration factor</td> <td></td> </tr> </table>	3. 3 eligible family members		÷ 4 total family members		.75 proration factor			
3. 3 eligible family members									
÷ 4 total family members									
.75 proration factor									
4. Multiply the HAP calculated in Step 2 by the number calculated in Step 3 to determine the family’s eligible subsidy portion.	4. Prorated HAP = \$300 x .75 = \$225								
5. The amount of rent the family will pay will be the gross rent for the unit (step 1) less the prorated HAP calculated in Step 4.	<table style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">5. Prorated Family Share</td> <td></td> </tr> <tr> <td style="padding-right: 20px;">\$550 Gross rent</td> <td></td> </tr> <tr> <td style="padding-right: 20px;">- \$225 Prorated HAP</td> <td></td> </tr> <tr> <td style="padding-right: 20px;">\$325 Prorated Family Share</td> <td></td> </tr> </table>	5. Prorated Family Share		\$550 Gross rent		- \$225 Prorated HAP		\$325 Prorated Family Share	
5. Prorated Family Share									
\$550 Gross rent									
- \$225 Prorated HAP									
\$325 Prorated Family Share									

Notification Requirements

At the time an application is filed, the PHA must notify all applicants for assistance about the rule restricting assistance based on citizenship status and of the requirement to submit documentation of eligible status or to elect not to claim eligible status. The PHA's notice must state the following:

- Financial assistance is contingent upon the appropriate submission and verification of documentation of citizenship or eligible immigration status.
- The types of documentation required and time period for submission. (See Exhibit 5-1.)

As appropriate, assistance will be prorated, denied, or terminated, based on a final determination of ineligibility after all appeals and, if requested, an informal hearing.

Submission of Documentation

Documentation must be submitted by the time of the eligibility determination. Once documents have been submitted and verified for an individual, citizenship documentation for that individual will not need to be collected again.

If the family certifies that the required evidence is temporarily unavailable and it needs more time, the PHA may provide an extension of up to 30 days to submit evidence of eligible status, if the family has submitted the required declaration of eligible immigration status. To obtain an extension, the family must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.

The PHA must inform the family, in writing, whether its request for a time extension of has been granted or denied. If granted, the notice must state the specific period of the extension. If the extension request is denied, the notice must explain the reasons for the denial.

If all required documents have been provided by the family, assistance may not be denied or delayed solely because verification or requested hearings have not been completed.

If required documents have not been submitted by all family members, only prorated assistance may be provided until the required documents have been submitted by all family members.

New family members in currently participating households must submit documentation at the first interim or annual reexamination following occupancy.

If a PHA suspects that an applicant or tenant has misreported his or her immigration status or altered or forged documents, it may refer the case to HUD's Office of Inspector General for investigation.

PHAs must apply all procedures in a uniform manner. No applicant or resident may be asked for additional information based on country of origin, speech, accent, language, or any other personal characteristic of the applicant or family member. Failure to maintain this performance standard could be a serious violation of the Fair Housing Act.

Verification of Eligible Immigration Status

The PHA must conduct primary verification of eligible immigration status through the INS automated system, Systematic Alien Verification for Entitlements (SAVE). The PHA must take the following steps to access SAVE:

- Complete and submit a Primary Verification User Access Code Agreement form before using SAVE for the first time.
- Each time, access the SAVE system by calling 1-800-365-7620.
- Use the assigned access code to enter the required information. One of the following messages will be received:
 - INS Status confirmed; or
 - Institute Secondary Verification.
- If the message is “Institute Secondary Verification”, the PHA must request a manual records search by completing form G-845S, Document Verification Request. This form must be sent to the INS along with photocopies of the original INS documents supplied by the applicant or currently assisted household member within 10 days of receiving the “Institute Secondary Verification” message.
- The PHA is not liable for any action, delay, or failure of the INS in conducting the automated or manual verification.

Delay, Denial, or Termination of Assistance

The PHA may not delay, deny, or terminate assistance to an applicant or currently assisted household if any of the following circumstances apply:

- At least one person in the household has submitted appropriate INS documents;
- The documents were submitted to the INS on a timely basis, but the verification process has not been completed;
- The family member in question moves;
- The INS appeals process has not been completed;

- Assistance is prorated;
- Deferral of termination of assistance is granted; or
- For a program participant, the informal hearing process is not complete.

The PHA must terminate assistance for at least 24 months if it determines that a family has knowingly permitted an ineligible person to live in the assisted unit without informing the PHA.

Assistance may be denied or terminated when:

- Declaration of citizenship or eligible immigration status is not submitted by the specified deadline or any extension;
- Required documentation is submitted but INS primary and secondary verification does not verify immigration status and family does not pursue INS or PHA appeal; or
- Required documentation is submitted but INS primary and secondary verification does not verify immigration status, and INS or PHA appeal is pursued but decision(s) are rendered against the family.

When the PHA decides to deny or terminate assistance, it must send a written notice to the household which includes the following:

- A statement that financial assistance will be denied or terminated and an explanation of why;
- Notification that the family may be eligible for prorated assistance if it is a mixed family;
- In the case of a currently assisted household, the procedures for obtaining relief under the preservation of families provision (e.g. temporary deferral or proration of assistance);
- The right to appeal the results of the secondary verification to the INS; and
- The right to request an informal hearing from the PHA in lieu of an INS appeal or after an appeal.

In the case of applicants, the notice may advise that assistance may not be delayed until the conclusion of the INS appeal process, but may be delayed during the informal hearing process.

**EXHIBIT 5-1
NON-CITIZEN RULE – SUMMARY OF DOCUMENTATION REQUIREMENTS**

STATUS	DOCUMENTATION
I A Citizen or National of the United States.	DECLARATION: For each family member with this status, a declaration of citizenship signed under penalty of perjury. For each adult, the declaration must be signed by the adult. For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.
II. A non-citizen claiming eligible immigration status who is 62 years of age or will be 62 years of age and receiving assistance on the effective date: 9/6/96.	DECLARATION: For each family member with this status, a declaration of eligible immigration status signed under penalty of perjury. Adults must sign their own declarations. AND: Proof of age
<p>III. All other non-citizens claiming eligible immigration status.</p> <p>Categories of eligible immigration status:</p> <p>1. A non-citizen lawfully admitted for permanent residence as an immigrant (includes special agricultural workers granted lawful temporary resident status).</p> <p>2. A non-citizen who entered the United States before 1/1/72 (or such later date as enacted by law); and</p> <ul style="list-style-type: none"> - Has continuously maintained residence in the U.S. since then; and - Who is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General. 	<p>DECLARATION: See II above AND:</p> <p><u>A verification form</u>: For each adult, the adult must sign the form. For each child, an adult member of the family residing in the unit who is responsible for the child must sign the form.</p> <p>The verification form must state that evidence of eligible immigration status may be released by the PHA to HUD and the INS without responsibility for the future use or transmission of the evidence by the recipient. The form must also notify the signer of the possible release of evidence of eligible immigration status by HUD. Such evidence shall only be released by HUD to the INS for the purpose of establishing eligibility for financial assistance.</p> <p>AND:</p> <p><u>INS Primary Verification</u> of eligible immigration status must be conducted by the PHA through the INS automated SAVE system. If this method fails to verify status, or, if the verification received indicates ineligible immigration status, the PHA must request <u>Secondary INS Verification</u> within 10 days by sending to the local INS Office photocopies of INS documents receiving (front and back) attached to Form G-845S – Document Verification Request.</p> <p>AND: The PHA must request and review an original INS document of eligible immigration status and must retain photocopies and return the original to the individual.</p>

**EXHIBIT 5-1
NON-CITIZEN RULE – SUMMARY OF DOCUMENTATION REQUIREMENTS**

STATUS	DOCUMENTATION
<p>III. All other Non-citizens with eligible immigration status (continued)</p> <p>3. A non-citizen who is lawfully present in the United States as a result of:</p> <ul style="list-style-type: none"> - Refugee status (section 207); or - The granting of asylum (which has not been terminated (section 208); or - The granting of conditional entry (section 203 (a)(7) prior to 4/1/80 because of persecution of fear on account of race, religion, or political opinion, or because of being uprooted by catastrophic national calamity. <p>4. A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergency reasons or reasons deemed strictly in the public interest (section 221(d)(5)) (e.g., parole status).</p> <p>5. A non-citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation (section 243 (h)) (threat to life or freedom).</p> <p>6. A non-citizen lawfully admitted for temporary or permanent residence (245A) (amnesty granted).</p>	<p>Acceptable INS Document:</p> <ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> - “Admitted as a Refugee Pursuant to Section 207” - “Section 208” or “Asylum” - “Section 243(h)” or “Deportation stayed by Attorney General” - “Paroled Pursuant to Section 221 (d)(5) of the INS” • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> - A final court decision granting asylum (but only if no appeal is taken); - A letter from an INS asylum officer granting asylum (if application is filed on or after 10/1/90) or from an INS district director granting asylum (application filed before 10/1/90); - A court decision granting withholding of deportation; or - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90). • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. • Form I-688B Employment Authorization Card annotate “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”. • A receipt issued by the INS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or • Other acceptable evidence. If other documents are determined by the INS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i>.

INS Appeals Process

The PHA must notify the family in writing if the secondary verification process does not confirm eligible immigration status. The notice must indicate whether assistance has been delayed, denied, or terminated and inform the family of the right to file an appeal with the INS.

If the family wants to exercise its right of appeal with the INS, it must take the following steps:

- Within 30 days from the date of the PHA notification, submit a written request, for an appeal with the INS.
- Include with this request a cover letter and any support documentation as well as a copy of the verification request form (Form G-845S) which was submitted by the PHA for the secondary verification request.
- Provide the PHA with a copy of the request for an appeal with the INS.
- Provide any additional documentation that the INS may request.

Within 30 days the INS must render its decision to the family and forward a copy to the PHA.

Fair Housing Requirements

Careless implementation of the rule limiting assistance to non-citizens may result in inadvertent discrimination.

PHAs must take care to comply with all applicable civil rights and other fair housing laws and regulations. The Fair Housing Act prohibits discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions. Such protected classes do not exclude persons who have or are perceived to have HIV/AIDS. Failure to follow all required procedures or to apply program requirements consistently by protected class may result in discrimination and lead to administrative findings or legal action.

In implementing limits on assistance to non-citizens, PHAs must comply also with Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of any handicap or perceived handicap.

Where feasible, if applicants and participants are not proficient in English, PHAs are instructed to provide notices and documents related to these provisions in a language the individual understands.

Other Required Information

Participation in the housing choice voucher program places an obligation on the family to provide information required by HUD and the PHA when requested, and to cooperate in efforts to verify the information provided. Disclosure of Social Security numbers and signatures on HUD's release authorization form are minimum program requirements.

Disclosure of Social Security Numbers

The PHA must require applicants and program participants to disclose the Social Security numbers (SSN) of all family members age six or older as a condition of admission and continued assistance. Persons who have not been assigned a SSN must execute a certification stating that no SSN has been assigned. This process need occur only one time for each family member. New family members age six or older should be required to disclose or certify at the time the change in family composition is reported to the PHA or the next annual recitification after a family member reaches age six. A parent or guardian must provide the certification for a minor.

The PHA must document the SSN disclosed by each family member. If the family member cannot produce an original Social Security card issued by the Social Security Administration, the PHA may accept one of the following as verification if it includes the SSN:

- A driver's license with SSN.
- Identification card issued by a federal, state, or local agency.
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid).
- Identification card issued by an employer or trade union.
- Earnings statements on payroll stubs.
- Bank statements.
- IRS Form 1099.
- Benefit award letters from government agencies.
- Retirement benefit letter.
- Life insurance policies.
- Court records (real estate, tax notices, marriage and divorce, judgment, or bankruptcy records).

If applicants cannot produce an original Social Security card, they must certify that the document provided is complete and accurate.

Authorization for the Release of Information/Privacy Act

The PHA must require all adult applicants and participants (age 18 and over) to sign the Authorization for Release of Information/Privacy Act Notice (form HUD-9886) as a condition for admission and continued assistance. The form is valid for only 15 months and must be signed annually at each reexamination.

With each adult member of the household, the PHA should review the information that the form authorizes HUD and the PHA to collect. Once signed, the form provides authorization for the following:

- HUD and the PHA to obtain any information necessary from State Wage Information and Collection Agencies (SWICAs) to verify information provided at the time of application or recertification.
- HUD and the PHA to verify income information with previous and current employers that is pertinent to eligibility or level of assistance.
- HUD to request income tax return information from the IRS and Social Security Administration (SSA) to verify income related to eligibility or level of assistance.

The Privacy Act portion of the form informs applicants and participants that the information that is collected may be used for computer matching with other agencies including the SSA, the IRS, and SWICAs.

5.3 ANNUAL INCOME

Overview

Determinations of program eligibility and total tenant payment for the housing choice voucher program require that the applicant or participant family's annual income be computed at least annually. Regulations specify the amounts to be included in the calculation of annual income.

Definition of Annual Income

Annual income means all amounts, monetary or not, that go to or are on behalf of, the family head or spouse (even if temporarily absent) or to any other family member, or all amounts anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date. Exhibit 5-2, *Income Inclusions*, is the complete definition of annual income as published in the regulations and *Federal Register* notices. Annual income means all amounts that are not specifically excluded by regulation.

EXHIBIT 5-2
INCOME INCLUSIONS AND EXCLUSIONS

INCOME INCLUSIONS

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, lotteries, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (but see No. 13 under Income Exclusions);
- (5) Payments in lieu of earnings, such as unemployment, worker's compensation, and severance pay (but see No. 3 under Income Exclusions);
- (6) Welfare Assistance.
 - a. Welfare assistance received by the household.
 - b. The amount of reduced welfare income that is disregarded specifically because the family engaged in fraud or failed to comply with an economic self-sufficiency or work activities requirement.
 - c. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustments by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare income to be included as income shall consist of:
 - (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities; plus
 - (ii) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage;
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; and
- (8) All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family, spouse, or other person whose dependents are residing in the unit (but see paragraph (7) under Income Exclusions).

EXHIBIT 5-2 – (CONTINUED)

INCOME EXCLUSIONS

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses (but see No. 5 under Income Inclusions);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide (as defined by regulation);
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8)
 - (a) Amounts received under training programs funded by HUD;
 - (b) Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - (c) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
 - (d) A resident service stipend. This is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the development. This may include, but is not limited to fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time; or
 - (e) Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
- (9) Temporary, nonrecurring, or sporadic income (including gifts). For example, amounts earned by temporary census employees whose terms of employment do not exceed 180 days (Notice PIH 2000-1).
- (10) Reparations payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- (11) Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
- (12) Adoption assistance payments in excess of \$480 per adopted child;
- (13) Deferred periodic payments of supplemental security income and social security benefits that are received in a lump-sum payment or in prospective monthly payments;
- (14) Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- (15) Amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; and

EXHIBIT 5-2 – (CONTINUED)

- (16) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. A notice will be published in the *Federal Register* and distributed to PHAs identifying the benefits that qualify for this exclusion. Updates will be distributed when necessary. The following is a list of income sources that qualify for that exclusion:
- a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
 - b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
 - c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
 - d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
 - e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
 - f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
 - g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);
 - h) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);
 - i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
 - j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
 - k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.);
 - l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
 - m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
 - n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));
 - o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
 - p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
 - q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
 - r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
 - s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).
- (17) Earned Income Disallowance for persons with disabilities [24CFR5.617]
- (a) Initial Twelve Month Exclusion [24CFR5.617(C)(1)]
 - (b) Second Twelve Month Exclusion and Phase-In [24CFR5.617(C)(2)]
 - (c) Maximum Four Year Disallowance [24CFR5.617 (C) (3)]

Annualizing Anticipated Annual Income

Once the PHA knows and verifies all sources of income are known and verified, the PHA must convert reported income to an annual figure. Convert periodic wages to annual income using the following:

- Multiply hourly wages by the number of hours worked per year (2080 hours for full-time employment with a 40 hour work week and no overtime).
- Multiply weekly wages by 52.
- Multiply bi-weekly wages (paid every other week) by 26.
- Multiply semi-monthly wages (paid twice each month) by 24.
- Multiply monthly wages by 12.

Generally the PHA should use current circumstances to anticipate annual income, unless verification forms indicate an imminent change (e.g., verification indicates an increase of 2.4 percent in Social Security benefits beginning on January 1).

PHAs may choose among several methods to determine the anticipated annual income. The following are two acceptable methods of calculating annual income:

- Calculating projected annual income by annualizing *current* income (and subsequently conducting an interim reexamination if income changes); or
- Using information available to average anticipated *income from* all known sources when the sources are expected to change during the year.

CALCULATING ANTICIPATED ANNUAL INCOME

A teacher's assistant works nine months annually and receives \$1,300 per month. During the summer recess, the teacher's assistant works for the Parks and Recreation Department for \$600 per month. The PHA may calculate the family's income using either of the following two methods:

- *Calculate Annual Income Based on Current Income:* \$15,600 (\$1300 x 12 months). An interim reexamination would then be conducted at the end of the school year to recalculate the family's income during the summer months at reduced annualized amount of \$7200 (\$600 x 12 months).
- *Calculate Annual Income Based on Average Experience:*

\$11,700	(\$1300 x 9 months)
<u>+ 1,800</u>	(\$ 600 x 3 months)
\$13,500	

Using the second method, an interim reexamination would *not* be conducted at the end of the school year. In order to use this method effectively, some history of income from all sources in prior years should be available.

Elements of Annual Income

Income from Assets

Annual income includes income from assets earned during the 12-month period and to which any family member has access. Section 5.4 discusses calculations related to income from assets.

Income of Dependents

A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student. The head of household, spouse, foster child, or live-in-aide are *never* dependents. Some income contributed to the household by dependents is counted and some is not.

Earned income of minors (family members 17 and under) is *not* counted.

Benefit or other *non-earned* income of minors is counted.

Although full-time students 18 years of age or older are technically identified as dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the heads of household or spouse. If the income is less than \$480 annually, count it all. If the annual income exceeds \$480, count \$480 and exclude the amount that exceeds \$480.

All income of a full-time student, 18 years of age or older, is counted if that person is the head of household or spouse.

Payments received by the family for the care of foster children or foster adults are *not* counted. This applies only to payments made through the official foster care relationships with local welfare agencies.

Income of Temporarily Absent Family Members

PHAs must count all income of family members whom the PHA has approved to reside in the unit, even if they are temporarily absent.

Regular Contributions and Gifts

PHAs must count as income any *regular* contributions and gifts (monetary or not) from persons outside the family. This may include rent and utility payments paid on behalf of the family and other cash or non-cash contributions provided on a regular basis.

REGULAR CONTRIBUTIONS AND GIFTS EXAMPLES

1. A divorced woman and her three children are housing choice voucher program participants. The former husband does not pay child support, but each month he brings the family groceries, clothing, or money. On average he provides \$100 each month in goods or cash. The \$100 value per month is included in the family's annual income.
2. The daughter of an elderly housing choice voucher participant pays the mother's \$175 share of rent each month. The \$175 value must be included in the participant's annual income.

Temporary Income

Temporary, non-recurring, or sporadic income (including gifts) is not counted.

Income from a Business (Includes Self-Employment Income)

Include the *net income* from operation of a business or profession.

Generally, net income equals gross income less business expense.

Straight-line depreciation of capital assets used in the business or profession may be deducted as a business expense. Interest payments on business loans, and all business expenses other than expenses for expansion or capital improvements are also eligible business expenses. However, expenditures for amortization of capital indebtedness may not be deducted.

Withdrawal of cash or assets from a business is counted as income except when the withdrawal is for reimbursement of amounts the family has invested in the business.

CAPITAL ASSETS AND BUSINESS EXPENSES

A self-employed house painter owns a truck he uses for his business as well as several ladders, buckets and spray paint guns. He also purchases paint rollers and hand brushes each time he is hired to do a job. The painter may deduct as business expenses the depreciation on his truck and ladders (capital equipment) as well as the cost of the paint, paint thinner, disposable rollers and paint brushes he purchases throughout the year.

Student Financial Assistance

All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income. This is true whether the assistance is paid to the student or directly to the educational institution.

State or Local Employment Training Programs

Exclude incremental earnings received from qualified employment training programs and training of resident management staff.

- A qualified training program is one that is part of a state or local employment training program and has clear goals and objectives. This would include programs that have the goal of assisting participants in obtaining employment skills, and are authorized or funded by federal, state, or local law, or operated by a public agency.
- Only exclude the compensation related to the training; other sources of household income are still included.
- Exclude the income only for the period during which the family member participates in the employment training program.

Public Assistance Income in As-Paid Localities

Special calculations of public assistance income are required for "as-paid" state, county, or local public assistance programs.

An "as-paid" system is one in which the family:

- Receives an amount from a public agency specifically for shelter and utilities; *and*
- The amount is adjusted based upon the actual amount the family pays for shelter and utilities.

Since there are variations in how as-paid localities calculate shelter and utility, the PHA should discuss the rules for computing income and rents for welfare recipients with the HUD field office.

The public assistance amount specifically designated for rent and utilities is called the "welfare rent".

In general, the welfare rent is treated as a "pass through" from the welfare agency to the PHA.

To determine annual income for public assistance recipients in "as-paid" localities, include:

- The amount of the family's grant for other than shelter and utilities; plus

- The maximum amount the welfare department can pay for shelter and utilities for a family of that size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.

Calculating the "Welfare Rent"

At application a family's welfare grant is \$300, which includes \$125 for basic needs and \$175 for shelter and utilities (based upon where the family is now living). The maximum the welfare agency allows, however, for shelter and utilities for a family of this size is \$190.

Count as Income:

\$125	Basic Needs
+\$190	Shelter and Utilities
\$315	Monthly Public Assistance Income

In some as-paid systems, the shelter and utilities payment is "ratably reduced". (The grant the family actually receives is reduced from the scheduled amount by a percentage.)

In these circumstances, the income to be counted is the maximum amount payable for shelter and utilities reduced by the appropriate percentage.

Treatment of Reductions in Welfare Assistance

A voucher participant does not receive a reduced family share when the family's welfare grant is reduced as the result of fraud, failure to participate in an economic self-sufficiency program, or failure to comply with a work requirement.

Before determining annual income when there has been a reduction in the welfare grant, the PHA must receive written verification from the welfare agency that the benefit reduction was caused by noncompliance or fraud before denying a family's request for a reexamination of income and rent reduction.

The prohibition against reducing rent does not apply when welfare benefits are lost because the lifetime limit on receipt of benefits has expired or in a situation where the family has complied with welfare program requirements but cannot obtain employment.

The amount that the welfare benefit has been reduced because of fraud or a sanction for noncompliance with requirements to participate in an economic self-sufficiency program is identified as the "imputed welfare income". The family's annual income includes the amount of the imputed welfare income plus the total amount of other annual income.

The amount of imputed welfare income is offset by income from other sources received by the family that start after the sanction is imposed. Therefore, if the family has found employment in the time between the sanction and the income certification, the new employment income would be subtracted from the imputed welfare income. If the new employment income were to be greater than the imputed welfare income, there would be no need to include the imputed welfare income in the determination of annual income.

“IMPUTED WELFARE INCOME”	
The family’s welfare grant was	\$3600
The family’s welfare grant was reduced by	\$3600
The “imputed welfare income” equals	\$3600
When the family comes in for reexamination its other annual income from before the sanction is	\$2000
The family’s total annual income is (the “imputed welfare income” plus all other income)	\$5600

At its next reexamination, the family reports income from a new part-time job in the amount of (The family’s other income is unchanged.)	\$2000
	\$3600
The new income is subtracted from the “imputed welfare income”	<u>\$2000</u> \$1600
The amount remaining is added	\$1600
To the other annual income	<u>2000</u>
Total annual income	\$3600

PHAs are required to make good faith efforts to enter into cooperation agreements with local welfare agencies, both to obtain the necessary information regarding welfare sanctions and to target economic self-sufficiency and other services to housing choice voucher program families. Any housing choice voucher family whose assistance is adversely affected because of PHA enforcement of these requirements must be notified of its right to an informal hearing.

Income of Confined Family Members

If a former family member is confined to a nursing home or hospital on a permanent basis, that person is no longer a member of the assisted household and the income of that person is not counted.

Alimony or Child Support

PHAs must count alimony or child support amounts awarded as part of a divorce or separation agreement *unless* the PHA verifies that the payments are not being made.

The PHA must determine what documentation is required to show that the family receives less than the court-ordered amount. For example, if the household has filed with the local support enforcement agency, print-outs from the agency may indicate the frequency and amount of payments actually received.

Lump Sum Payments Counted as Income

Generally, lump sum amounts received by a family, such as inheritances, insurance settlements, or proceeds from sale of property are considered assets, not income.

When Social Security or SSI benefit income is paid in a lump sum as a result of deferred periodic payments, that amount is excluded from annual income.

However, lump sum payments caused by delays in processing periodic payments for unemployment or welfare assistance are included as income. However, any portion of the lump sum that is payment for a period prior to the family's participation in the housing choice voucher program would be counted as an asset instead of as annual income. A lump sum payment resulting from delayed benefit or other income may be treated in either of the two ways illustrated in the interim reexamination shown on the next page.

TREATMENT OF DELAYED BENEFIT PAYMENTS RECEIVED IN A LUMP SUM					
Family loses job on October 19 and applies for unemployment benefits. The family receives a lump sum payment of \$700 in December to cover the period from 10/20 to 12/5 and begins to receive \$100 a week effective 12/6.					
Option A: PHA processes one interim reexamination immediately effective 11/1 and a second interim after unemployment benefits are known.					
	10/1	11/1	12/1	1/1	2/1
Monthly Gross income	800	*0	*0	492**	492**
Monthly Allowances (3 minors x 480 – 12 month)	120	-	-	120	120
Monthly Adjusted Income	680	0	0	372	372
Total Tenant Payment	204	0	0	0***	112***
* The family's income is calculated at \$0/month beginning November 1, continuing until benefits actually begin and new income is calculated.					
** Family's actual income for 1/1 is \$100/week x 52 weeks = \$5,200) 12 = \$433. However, because the family's TTP was calculated at zero income for the months of November and December (the period eventually covered by the the \$700 lump sum payment), the annual income to be used in calculating monthly gross income should be: \$100/week benefit x 52 weeks = \$5,200 + \$700 lump sum payment = \$5,900 annual gross income) 12 = \$492.					
*** Increased rent does not start until 2/1 in order to give family notice of rent increase.					

TREATMENT OF DELAYED BENEFIT PAYMENTS: OPTION B					
Option B: PHA processes one interim reexamination after unemployment benefits are known.					
	10/1	11/1	12/1	1/1	2/1
Monthly Gross Income	800	0/800*	0/800*	433*	433*
Monthly Allowances (3 Minors x 480) 12 Months)	120	120	120	120	120
Monthly Adjusted Income	680	0/680	0/680	313	313
Total Tenant Payment	204	204*	204*	94	94
Recalculated TTP	-	94***	94*	94	94
Rent Credit (204-94=)	-	110	110	-	-
<p>* Family's actual income for 11/1 and 12/1 is zero but because the PHA does not process an interim reexamination, the family's TTP continues to be calculated using \$800 as monthly gross income. Beginning 1/1, monthly gross income is known to be \$100/week, or \$433/month.</p> <p>** The lump sum payment is taken into account by making the recertification retroactive to 11/1. Annual income is calculated as \$5,200) 12 = \$433 monthly gross income.</p> <p>*** TTP for November and December recalculated as \$433 monthly gross income and \$313 monthly adjusted income x .30 = 94 with credit or refund to family of \$110/month for each of these two months for difference between TTP paid of \$204 and recalculated TTP of \$94.</p>					

5.4 DETERMINING INCOME FROM ASSETS

PHAs are required to include in the calculation of annual income any interest or dividends earned on assets held by the family. See paragraph (3) under Exhibit 5-2 for the full HUD definition of asset income to be included in the calculation of annual income, and see Exhibit 5-3, *Summary of Asset Inclusions and Exclusions*, for a more detailed description.

Calculation When Assets Exceed \$5,000

When net family assets are \$5,000 or less, use the actual income from assets.

When family assets are more than \$5,000, use the greater of:

- Actual income from assets; or
- A percentage of the value of such assets based upon the current passbook savings rate as established by HUD. This is called imputed income from assets.

**EXHIBIT 5-3
SUMMARY OF ASSET INCLUSIONS AND EXCLUSIONS**

A. ASSETS INCLUDE:	B. ASSETS DO NOT INCLUDE:
<ol style="list-style-type: none"> 1. Amounts in savings and checking accounts. 2. Stocks, bonds, savings certificates, money market funds and other investment accounts. 3. Equity in real property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the assets <i>and</i> reasonable costs (such as broker fees) that would be incurred in selling the assets. 4. The cash value of trusts that may be withdrawn by the family. 5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty. 6. Some contributions to company retirement/pension funds. Note the discussion below on accessibility of the funds. 7. Assets, which although owned by more than one person, allow unrestricted access by the applicant. 8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims. 9. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc. 10. Cash value of life insurance policies. 11. Assets disposed of for less than fair market value during the two years preceding certification or recertification. 	<ol style="list-style-type: none"> 1. Necessary personal property, except as noted in A.9. 2. Interest in Indian trust lands. 3. Assets that are part of an active business or farming operation. 4. <i>NOTE:</i> Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant's/tenant's main occupation. 5. Assets not controlled by or accessible to the family and which provide no income for the family. 6. Vehicles especially equipped for the disabled. 7. Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

NOTE: A key factor in whether or not to include an asset in the calculation of annual income is whether any member of the family has access to the asset.

COMPARE ACTUAL INCOME FROM ASSETS TO IMPUTED INCOME FROM ASSETS

Applicant has \$7,900 in assets. (Assume passbook rate of 3.5 percent.)

Applicant actual income from assets is paid at 1.5% simple interest annually - \$119.

Assets:	\$ 7,900
HUD-determined passbook rate	x .035
Imputed income from assets	\$ 277

Compare actual interest of \$119 to imputed interest of \$277. The interest of \$277 (the greater of the two) will be used as income from assets in the calculation of annual income.

Additional Guidance On Calculating The Value Of Assets And Income From Assets

Contributions to Company Retirement/Pension Funds

While an individual is employed, count as an asset only amounts the family could withdraw from a company retirement or pension fund without retiring or terminating employment.

After retirement or termination of employment, count as an asset any amount the employee elects to receive as a lump sum from the company retirement/pension fund.

Include in *annual income* any retirement benefits received through periodic payments.

In order to correctly include or exclude as assets any amount now held in retirement/pension funds for employed persons, the PHA must know whether the money is accessible before retirement.

Equity in Real Property

Real property includes land or real estate owned by the applicant or participant household. Equity is the portion of the market value of the asset which is owned by the applicant/participant (the amount which would be available to the household if the property were to be sold). It is equal to the market value less any mortgage or loans secured against the property (which must be paid off upon sale of the property).

Calculate equity in real property as follows:

$$\text{Market Value} - \text{Loan (Mortgage)} = \text{Equity}$$

Calculate the cash value of real property as follows:

$$\text{Equity} - \text{Expense to Convert to Cash} = \text{Cash Value}$$

Expenses to convert to cash may include costs such as sales commissions, settlement costs, and transfer taxes.

Assets Disposed of for less than Fair Market Value

At initial certification or reexamination, PHAs must ask whether a household has disposed of an asset for less than its market value within the past two years. If the family has, the PHA must determine the difference between the cash value of the asset at time of sale or other disposal and the actual payment received of for the asset.

Generally, assets disposed of as a result of a divorce, separation, foreclosure, or bankruptcy are *not* considered assets disposed of for less than fair market value. Some of the types of assets that must be considered include cash, real property, stocks, bonds, and certificates of deposit. They must be counted if the household gave them away or sold them for less than the market value.

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a threshold in its administrative plan that will enable the PHA to ignore small amounts such as charitable contributions. (HUD Handbook 4350.3, for multifamily subsidized housing, uses \$1,000 as a threshold.)

ASSET DISPOSED OF FOR LESS THAN FAIR MARKET VALUE: REAL ESTATE

Mrs. Jones "sold" her home to her daughter for \$5,000. The home was valued at \$19,500 and had no loans secured against it. Mrs. Jones paid broker's fees and settlement costs of \$1,700 (8.7% of the sales price – this is a realistic estimate for the locality). The amount to be included in family assets is \$12,800.

\$19,500	(Market Value)
<u>- 1,700</u>	(Expense to Convert to Cash)
\$17,800	(Cash Value)
<u>- 5,000</u>	(Amount Received when Asset Disposed)
\$12,800	(Value of Asset Disposed for Less than Fair Market Value)

ASSET DISPOSED OF FOR LESS THAN FAIR MARKET VALUE: STOCKS

Ten months ago the Daniel family gave their son 300 shares of ABC, Inc. stock. The market value was \$3,735 (\$12.45/share). They incurred a broker's fee of \$175 for the transaction.

\$ 3,735.00	(Market Value)
<u>- 175.00</u>	(Expense to Convert to Cash)
\$ 3,560.00	(Cash Value)
<u>- 00</u>	(Amount Received when Asset Disposed)
\$ 3,560.00	(Value of Asset Disposed for Less than Fair Market Value)

Verification of assets disposed of for less than fair market value is generally done by applicant certification. PHAs need verify only those certifications that warrant documentation.

Valuing Assets

Because of the requirement to include the greater of the actual interest/dividend income earned or a percentage based upon a HUD published passbook rate when assets are greater than \$5,000, the value of assets *may* affect the family's annual income.

The PHA must determine the *market value* of the asset and then calculate the *cash value* by subtracting the estimated expense required were the family to convert the asset to cash.

Expense to convert to cash includes costs such as:

- Penalties for premature withdrawal (e.g. the 10% penalty paid when a retirement account is closed prior to retirement age, or a certificate of deposit is withdrawn prior to maturity);
- Broker and legal fees (e.g. a percentage of the value of the asset incurred in the sale of stocks, bonds, real estate, etc.); and
- Settlement costs incurred in real estate transactions (e.g. the typical percentage of sales price for settlement in the locality).

NOTE: PHAs must not require families to dispose of assets in order to determine the costs to convert to cash. These amounts simply reflect a realistic estimate of costs, and by deducting them from the market value of the asset, the imputed income from the asset is based on an amount the family would have in hand if they converted their assets to cash.

5.5 ADJUSTED INCOME

Definition of Adjusted Income

Adjusted income is the annual income of the members of the family residing in or intending to reside in the dwelling unit, less the following mandatory deductions:

- \$480 for each dependent;
- \$400 for any elderly family or disabled family;
- Child care;
- Disability assistance; and.
- Medical expenses

Dependent Allowance

The family receives an allowance of \$480 for each family member who is 1) under 18 years of age, 2) a person with disabilities, or 3) a full-time student.

A household head, spouse, foster child, or live-in aide may *never* be counted as a dependent.

A full-time student is one carrying a full time subject load (as defined by the institution) at an institution with a degree or certificate program.

Elderly or Disabled Household Allowance

An elderly or disabled family is any family in which the head or spouse (or the sole member) is at least 62 years of age *or* a person with disabilities.

Each elderly or disabled family receives a \$400 household allowance. Because this is a “household allowance” each household receives only one allowance, even if both the head and the spouse are elderly.

Child Care Allowance

Reasonable child care expenses for the care of children including foster children, age 12 and younger, may be deducted from annual income if all of the following are true:

- The care is necessary to enable a family member to work, look for work, or further his/ her education (academic or vocational);
- The expense is not reimbursed by an agency or individual outside the household; and
- The expenses incurred to enable a family member to work do not exceed the amount earned.

Child support payments made to another on behalf of a minor who is not living in the applicant household are not child care and *cannot be deducted*.

Care expenses for the care of disabled family members over the age of 12 cannot be deducted as a child care expense, but see the section on *Allowance for Disability Assistance Expenses* below.

When more than one family member works, the PHA must determine which family member is being enabled to work because child care is provided. This is necessary because the child care allowance cannot exceed the income that family member earns. A good general rule is to assume that the child care expenses enable the lowest paid individual to work, unless this is obviously not the case.

When a family member works and goes to school, the PHA must prorate the child care expense so that the portion of the total child care expense that is specifically related to the hours the family member works can be compared with the amount earned.

PHAs must determine whether child care costs are "reasonable". Reasonable means reasonable for the care being provided. Reasonable costs for in-home care may be very different from reasonable day-care center costs. Families may choose the type of care to be provided. The PHA may not decide that the family may receive a deduction only for the least expensive type of care available.

Allowance for Disability Assistance Expense

Families are entitled to a deduction for unreimbursed expenses to cover care attendants and auxiliary apparatus for any family member who is a person with disabilities, to the extent these expenses are necessary to enable a family member (including the member who is a person with disabilities) 18 years of age or older to be employed.

EXAMPLES OF ELIGIBLE DISABILITY ASSISTANCE EXPENSES

The payments made on a motorized wheelchair for the 42 year old son of the head of household enable the son to leave the house and go to work each day on his own. Prior to the purchase of the motorized wheelchair, the son was unable to make the commute to work. These payments are an eligible disability assistance expense.

Payments to a care attendant to stay with a disabled 16-year-old child allow the child's mother to go to work every day. These payments are an eligible disability assistance allowance.

This allowance is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds three percent (3%) of gross annual family income. However, the allowance may not exceed the earned income received by the family member who is 18 years of age or older who is able to work because of such attendant care or auxiliary apparatus.

Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work.

CALCULATION OF THE ALLOWANCE FOR DISABILITY ASSISTANCE EXPENSES

Head	36	Earned Income	\$12,000
Spouse	35	Earned Income	\$10,000
Son	15		

Expenses for care of disabled son = \$3,500

Disability Assistance Allowance:

\$22,000	Annual Income
x .03	
\$ 660	3% of Annual Income
\$ 3,500	Total disability assistance expenses
- 660	
\$ 2,840	Allowable disability assistance expenses

NOTE: \$2,840 is less than the income earned, so the full allowance may be deducted.

Allowance for Medical Expenses

The medical expense deduction is permitted only for households in which the head or spouse is at least 62 or disabled (elderly or disabled households).

If the household is eligible for a medical expense deduction, the medical expenses of all family members may be counted (e.g., the orthodontist expenses for a child's braces may be deducted if the household is an elderly or disabled household).

Medical expenses are expenses anticipated to be incurred during the 12 months following certification or reexamination which are not covered by an outside source such as insurance. The medical allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year.

Not all elderly or disabled applicants or participants are aware that their expenses for medical care are included in the calculation of adjusted income for elderly or disabled households. For that reason, it is important for PHA staff to probe for information on allowable medical expenses. These may include:

- Services of doctors and health care professionals.
- Services of health care facilities.
- Medical insurance premiums.

- Prescription/non-prescription medicines (prescribed by a physician).
- Transportation to treatment (cab fare, bus fare, mileage).
- Dental expenses, eyeglasses, hearing aids, batteries.
- Live-in or periodic medical assistance.
- Monthly payment on accumulated medical bills (regular monthly payments on a bill that was previously incurred). The allowance may include only the amount expected to be paid in the coming 12 months.

If a family has medical expenses and no disability assistance expenses, the allowable medical expense is that portion of total medical expenses that exceeds three percent of annual income.

CALCULATING MEDICAL EXPENSES			
Head	64	Spouse	63
Annual Income			\$12,000
Total Medical Expenses			\$ 1,500
\$12,000		Annual Income	
<u>x .03</u>			
\$ 360		3% of Annual Income	
\$ 1,500			
<u>- 360</u>			
\$ 1,140		Allowable Medical Expense	

Special Calculation for Households Eligible for Disability Assistance and Medical Expenses

If an elderly family or disabled family has both medical expenses and disability assistance expenses, a special calculation is required to insure that the family’s three-percent share of these expenses is applied only one time. Because the allowance for disability assistance expenses is limited by the amount earned by the person freed for work, the disability allowance must be calculated before the medical allowance is calculated.

When the family has disability assistance expenses greater than or equal to three percent of annual income, an allowance for disability assistance expenses is computed as described above. In such an instance, the allowance for medical expenses will be equal to the family’s total medical expenses.

EXAMPLE:
DISABILITY ASSISTANCE AND MEDICAL EXPENSES

An elderly family has \$2,000 in medical expenses and \$3,000 in expenses for disability assistance. Annual income is \$20,000. \$2,400 of annual income is earned because the disability assistance enables a family member to work. Three percent of annual income is \$600.

Total Disability Assistance Expense:	\$3,000
Less: Three percent of Annual Income:	<u>- 600</u>
	\$2,400
Disability Assistance Allowance:	\$2,400
Total Medical Expense:	\$2,000
(entire 3% of annual income deducted to compute disability allowance)	

When a family has disability assistance expenses that are less than three percent of annual income, the family will receive no allowance for disability assistance expense. However, the allowance for medical expenses will be equal to the amount by which the sum of both disability and medical expenses exceeds three percent of annual income.

EXAMPLE:
DISABILITY ASSISTANCE AND MEDICAL EXPENSES

An elderly family has \$1,000 in medical expenses and \$500 in expenses for disability assistance. Annual income is \$20,000. \$4,000 of annual income is earned because the disability assistance enables a family member to work. Three percent of annual income is \$600.

Total Disability Assistance Expense:	\$ 500
Less: Three percent of Annual Income	<u>- 600</u>
	(\$ 100)
Disability Assistance Allowance:	\$ 0
Total Medical Expense:	\$1,000
Less: Balance of 3% of Annual Income:	<u>- 100</u>
Medical Expense Allowance:	\$ 900

If the disability assistance expense exceeds the amount earned by the person who was freed for work, the allowance for disability assistance will be capped at the amount earned by that individual. When the household is also eligible for a medical expense allowance, however, the three percent may have been exhausted in the first calculation and it then will not be applied to medical expenses. The following example illustrates application of the cap on disability

allowance permitting a maximum allowance equal to the income earned by the household member enabled to work.

EXAMPLE:
DISABILITY ASSISTANCE AND MEDICAL EXPENSES

An elderly family has \$2,000 in medical expenses and \$3,500 in expenses for disability assistance. Annual income is \$20,000. \$2,400 of annual income is earned because the disability assistance enables a family member to work. Three percent of annual income is \$600.

Total Disability Assistance Expense:	\$3,500		
Less: Three percent of Annual Income	<table style="border-collapse: collapse; margin-left: 10px;"> <tr> <td style="border-bottom: 1px solid black; padding: 0 5px;">600</td> </tr> <tr> <td style="padding: 0 5px;">\$2,900</td> </tr> </table>	600	\$2,900
600			
\$2,900			
Disability Assistance Allowance: (cannot exceed \$2,400 income generated)	\$2,400		
Total Medical Expense: (entire 3% of Annual Income was deducted to compute the disability allowance)	\$2,000		
Medical Expense Allowance:	\$2,000		

Errors in Determining Annual and Adjusted Income

There are two major sources of most errors in calculating annual income. Those are: 1) applicants and participants failing to fully disclose all income information; and 2) incorrect allowance calculations often resulting from failure to obtain third party verification.

5.6 VERIFICATION OF FACTORS AFFECTING ELIGIBILITY AND FAMILY RENT

Accurate determination of income eligibility, allowances, and family rent can occur only with full verification of all factors related to income and family circumstances. While the regulations regarding verification are brief, this activity takes a significant amount of time and attention in administration of the program. Well-designed verification procedures are essential to obtaining full and accurate information, which is essential for the best use of program funds and fair and equitable treatment of all participants.

The tenant file must include third party verification of the following factors:

- Reported family annual income;
- The value of assets;
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

If third party verification is not available, the file must document efforts to obtain it and why they were unsuccessful.

Third party verification is also required for all factors which affect eligibility and preference. Exhibit 5-5 indicates the appropriate types of third party verification and other sources of verification which may be used when third party verification cannot be obtained.

A PHA policy regarding verification can be helpful in assuring consistent documentation. Such a policy might require that staff mail initial requests for written verification to the source of income (or expense). If the information is not returned within a specified number of days, the PHA may attempt telephone verification. If both written and oral third party verification attempts fail, the applicant or participant may be required to provide documents as verification. The client file must include notes as to why documents provided by the client have been used instead of the preferred third party verification.

A PHA may resort to use of family certification of facts only when neither a third party nor documents are available. The client file would include notes documenting efforts to obtain third party verification and documents for review and an explanation why those were not obtained.

5.7 DENIAL OF ASSISTANCE

An applicant may be denied assistance under the housing choice voucher program only for program violations that are identified as grounds for denial of assistance. Denial of assistance includes:

- Denial of listing on the PHA waiting list;
- Denial or withdrawal of a voucher;
- Refusal to enter into a HAP contract or approve a unit; and
- Refusal to process or provide assistance through portability.

Assistance must be denied for each of the following reasons:

- The applicant does not meet the eligibility criteria described earlier in this chapter (e.g., the applicant family's annual income exceeds the income limit for a family of that size).
- Any adult family member refuses to sign or submit required consent forms (such as the authorization for release of information form or the declaration of citizenship and non-citizen status).
- Any family member has been convicted of manufacturing or producing methamphetamine (commonly referred to as "speed") on the premises of an assisted housing project (including the building or complex in which the unit is located and the associated common areas and grounds).

While the PHA is required to deny assistance to applicants for the reasons listed above, PHAs must establish local policies concerning denial of assistance to applicants for the following reasons:

- The family has violated program obligations. (See Exhibit 5-4.)

**EXHIBIT 5-4
FAMILY OBLIGATIONS**

Family obligations under the housing choice voucher program include:

- Supplying required information deemed necessary by HUD or the PHA to administer the program. This includes information related to the calculation of income, family composition, signatures on consent forms, submission of documents related to eligible immigration status, and disclosure and verification of social security numbers.
- Responsibility for any breach of HQS caused by the family.
- Permitting HQS inspections.
- Complying with the lease.
- Submitting notices to the PHA and owner before moving out of unit or terminating the lease.
- Supplying the PHA with any eviction notice received from the owner.
- Using the assisted unit as the family's only residence and providing notification of any changes in household composition including the departure of a household member.
- May not sublet or assign the lease.
- May not be absent in violation of the PHA policy on absences from the unit and must provide PHA-requested information on the purposes of family absences.
- Must not own or have any interest in the unit, except ownership in a cooperative.
- Must not be receiving any other form of tenant-based or duplicative assistance.
- Must not engage in drug-related criminal or violent criminal activity.
- Must not commit fraud, bribery or any other corrupt or criminal act in connection with the program.

- Any family member has been evicted from public housing.
- The PHA has terminated assistance for any family member under the certificate or voucher program.
- Any member of the family has committed drug-related criminal activity or violent criminal activity (see further discussion below).
- Any member of the family has committed fraud, bribery, or any other corrupt or criminal act related to any federal housing program.

Crime by Family Members

- The family currently owes rent or other amounts to the PHA or another PHA for amounts in connection with the housing choice voucher, certificate, moderate rehabilitation, or public housing programs.
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached an agreement with the PHA to pay amounts owed to a PHA or amounts paid to an owner by a PHA.

If the PHA denies assistance to an applicant because of illegal use, or possession for personal use, of a controlled substance, such use or possession must have occurred within one year before the date that the PHA provides notice to the family of the determination to deny assistance. The PHA cannot deny assistance for such use or possession by a family member, if the family member can demonstrate that he or she:

- Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and
- Is recovering, or has recovered from, such addiction and does not currently use or possess controlled substances. The PHA may require a family member who has engaged in the illegal use of drugs to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.

In determining whether to deny assistance based on drug-related criminal activity or violent criminal activity, the PHA may deny assistance if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

PHA Discretion to Consider Circumstances

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA has discretion to consider any of the circumstances in each particular case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.

MAKING THE DECISION TO DENY ASSISTANCE

In each instance before making a decision to deny housing choice voucher program assistance, PHA staff will want to consider the specific circumstances of the family under review and determine if denial is the best response.

In some instances, the PHA may determine that the seriousness of the situation does not warrant denial. For example, a family whose assistance was terminated for failure to recertify may be evaluated differently than an applicant family who was terminated from public housing for wanton destruction of public housing property.

Timing may also influence the judgment of PHA staff. A family that was terminated very recently for failure to recertify might be denied, while staff might determine that a family evicted from public housing 10 or 12 years ago for property destruction might be given more consideration, particularly if more recent evidence suggests a change in family behavior.

Similarly, if damage caused by a family evicted 10 years ago was attributed to a teenager no longer living with the family, admission to the program might seem a reasonable decision.

5.8 SCREENING

The housing choice voucher program is a rental assistance program designed to provide subsidy in the private rental market. Typical private market rental management practices by owners are encouraged, including screening voucher holders for their suitability as tenants. The PHA's selection of a family to participate in the voucher program is not in any way an endorsement of tenancy nor a prediction of positive family behavior.

Owners are encouraged to screen families on the basis of their tenancy histories and to inquire about factors such as:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of others to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the life, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

Before approval of an assisted tenancy, the PHA must tell the owner that screening for suitability is the owner's responsibility. If the PHA has adopted a screening plan, as described below, the PHA should also inform the owner of the specific type of screening conducted.

The PHA is required to provide the owner with:

- The family's current and prior address (as shown in the PHA records); and
- The name and address (if known) of the landlord at the family's current and prior addresses.

This information is intended to assist the owner in conducting his or her own screening.

The PHA may choose to provide a prospective owner with additional information it possesses about the family, including information about the tenancy history of family members or about drug-trafficking by family members. If the PHA chooses to provide such information, it should describe how the information was obtained, and encourage the owner to confirm such information.

When developing such a policy, the PHA should consider a whether all information contained in the tenant file should be provided, or if the PHA should provide only information that has been independently confirmed.. The policy must provide that the PHA will give comparable information about all families to all owners.

The PHA must provide each family with a statement of PHA policy on providing information to owners. The statement describing the policy must be included in the information packet that is given to each family selected to participate in the program.

SAMPLE POLICY ON INFORMATION PROVIDED TO OWNERS

When the family submits a request for tenancy approval, the PHA will provide the prospective owner with the family's current and prior address as shown in the PHA's records. If the PHA has this information, it will also provide the name and address of the landlord at the family's current and prior address.

The PHA will inform the owner that it is the landlord's responsibility to screen prospective tenants for suitability as tenants as evidenced by the family's previous rental history. When the PHA has information related to a family's previous tenancies, the PHA will inform the landlord that the information is available and provide it upon a written request from the landlord. Information will be provided when it is part of the PHA tenant file from a previous housing choice voucher, certificate, moderate rehabilitation, or public housing tenancy, or when the PHA has been able to verify that information it has regarding any other tenancy is reliable. Only the Housing Coordinator may provide information about previous tenancies other than landlord names and addresses. The information may be provided in writing or during an in-person meeting with the prospective landlord. Any information available to the PHA about any potential housing choice voucher program will be provided upon landlord request.

All new families and all families preparing to move will be informed about this policy through information included in the information packet provided at the briefings for new and moving families.

Screening by the PHA

Screening family behavior or suitability for tenancy is a practice which PHAs may adopt to preclude families with poor rental histories from participation in the program. However, even when it adopts screening, the PHA has no liability or responsibility to the owner or other person for the family's behavior or the family's conduct in tenancy.

Performing screening on program applicants and denying program participation for those who have poor rental histories may be a good marketing tool within the community, and may potentially reduce the number of terminations of assistance for program and lease violations. Owner outreach may be more successful if the PHA can describe a reasonable screening methodology that weeds out applicants with specific types of undesirable tenancy behaviors.

However, the PHA must carefully communicate the fact that this screening is not a guarantee of good behavior by voucher holders and that it does not replace the screening an owner may choose to conduct.

A PHA that has adopted a screening policy must include a statement of its policy in the information packet given to each family. The PHA's policy must provide that the PHA will give the same types of information to all families and to all owners.

5.9 DETERMINATION OF UNIT SIZE REQUIREMENTS

The appropriate number of bedrooms needed by an applicant family must be determined by the PHA when it determines family eligibility for a housing choice voucher. The PHA must establish standards that determine the number of bedrooms needed for families of different sizes and composition. For each family, the PHA determines the appropriate number of bedrooms under the subsidy standards. Family unit size is entered on the housing choice voucher issued to the family.

The following requirements apply when determining the family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards (HQS).
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family's unit size.
- A family that consists of a pregnant woman only, and (no other persons), must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size.
- Two elderly or disabled household members may be given separate bedrooms.
- Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the PHA's subsidy standards.

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. (For a single person other than a disabled or elderly person or a remaining family member, such exception may not override the requirement of providing only a zero or one-bedroom unit to a single person.)

Typical PHA Standards Used to Issue Housing Choice Voucher			Standards Used to Determine Acceptability of Unit Size (HQS Rules)	
Housing Choice Voucher Size	Minimum No. of Persons in Household	Maximum No. of Persons in Household	Unit Size	Maximum Occupancy Assuming a Living Room Is Used as a Living/Sleeping Area
0-BR	1	1	0-BR	1
1-BR	1	2	1-BR	4
2-BR	2	4	2-BR	6
3-BR	4	6	3-BR	8
4-BR	6	8	4-BR	10
5-BR	8	10	5-BR	12
6-BR	10	12	6-BR	14

5.10 NON-DISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS

Overview

PHAs must comply with the following non-discrimination and equal opportunity requirements:

- Executive Orders 11246, 11625, 12138, 12432, and 12259, 46FR 1253 (1980) as amended;
- Executive Order 11063, which prohibits discrimination based on religion or sex;
- Title VI of the 1964 Civil Rights Act, which prohibits discrimination based on race, color, or national origin;
- Section 3 of the Housing and Urban Development Act of 1968;
- The Fair Housing Act (Title VIII of the 1968 Civil Rights Act) which prohibits discrimination in the sale, rental, or financing of housing on the basis of race, color, religion, sex, national origin, handicap, or familial status (which refers to the age and number of children in the family and pregnant women);
- Section 504 of the Rehabilitation Act of 1973;
- The Age Discrimination Act of 1975; and
- Title II of the Americans with Disabilities Act (ADA) (see HUD Notice PIH 95-48).

The PHA is required to make the housing choice voucher program available and accessible to all eligible families and must provide a family with information on how to complete and file a housing discrimination complaint if a family claims illegal discrimination because of race, color, religion, sex, national origin, age, familial status, or disability.

The Fair Housing Act amendments ensure that persons with a disability and families with children are not discriminated against.

It is unlawful to discriminate in private or federally assisted housing against households including one or more persons under age 18 in the household or against people who are pregnant or pursuing custody. The following types of housing intended for the elderly, however, are exempt from this rule:

- State and federal housing that is specifically designed and operated to assist the elderly;
- Housing intended for and solely occupied by persons 62 and older; and
- Housing intended and operated for occupancy by at least one person 55 and older per unit. To qualify for this exemption, 80% of the units must have at least one person 55 or older.

It is unlawful to discriminate against a renter because of the disability of the renter or other household member or the disability of any person associated with the renter or the perceived disability of any of those individuals.

In the Fair Housing Act amendments, the definition of disability includes:

- Physical or mental impairments which limit major life activities;
- A record of having such impairments or being regarded by others as having an impairment.

The example list of impairments is long and includes learning disabilities, diabetes, alcoholism, emotional illness, cancer, heart disease, AIDS, etc. It does *not* include current, illegal use of or addiction to a controlled substance.

Private owners of rental units must permit disabled persons, at their own expense, to make reasonable modifications to the premises (both interior unit and common area) if necessary, to obtain full enjoyment of a dwelling. However, permission may be conditioned on the renter agreeing to restore the unit interior to its previous condition. Permission may also be conditioned on provision of a description of work, assurance it will be done in "workmanlike" manner and that necessary building permits will be obtained.

If requested, owners must make reasonable accommodations to rules and policies to give persons with disabilities equal opportunity to enjoy dwelling and/or common areas (e.g., through assigned parking for persons with disabilities, or animals assisting disabled tenants, even if pets are not generally allowed).

Section 504 Requirements

Section 504 of the Rehabilitation Act of 1973 (as amended) prohibits discrimination under any program or activity receiving federal financial assistance solely on the basis of a disability. The rule requires those who are considered "recipients" of federal funds to ensure that individuals with disability will receive equal opportunity to participate in programs and services in the most appropriate integrated setting.

PHAs are considered "recipients" for this purpose. Owners under the housing choice voucher program are not considered recipients for this purpose, but must comply with the "reasonable accommodation" provisions of the Fair Housing Act amendment.

The definition of an individual with disabilities in Section 504 includes any person who has:

- Physical or mental impairment(s) that substantially limits one or more major life activities; or
- A record of having such impairments or is regarded as having such impairments.

Program Accessibility/Eligibility

To ensure that persons with disabilities have an opportunity to participate in the program, Section 504 requires "recipients" to assure that outreach materials and the application process are open to persons with disabilities. For example, the PHA's application process must be accessible to persons with disabilities, or the PHA must make provisions to take applications from these persons.

To ensure communication accessibility, recipients are required to have TDD or TTY machines (teletypewriter machines used by hearing impaired individuals) or an equally effective communication system. Recipients must pay for the cost of an interpreter for a hearing impaired person upon request, although advance notice may be required, and must provide copies of legal documents and informational materials in braille or on tape for visually impaired applicants. Recipients are not required to take any actions which would result in a fundamental alteration in the nature of the program or undue financial or administrative burden.

Special Rules for the Housing Choice Voucher Program

The PHA must ensure that outreach efforts reach eligible persons with disabilities and that owners with accessible units are encouraged to participate in the program. In addition, PHAs should help families that include an individual with a disability in locating an available, accessible unit. When considering requests for extensions of the voucher term, a PHA must take into account the special problems associated with locating an accessible unit. When required as a reasonable accommodation for a family that includes a person with disabilities, a PHA may establish a higher payment standard.

Chapter 3 describes the requirement for the PHA to execute and include in the PHA plan a certification of its compliance with affirmative, fair housing, and equal opportunity requirements.

Filing a Fair Housing Discrimination Complaint

At the housing choice voucher program briefing, the PHA must instruct families about the potential for encountering housing discrimination and about the procedures for filing a Fair Housing discrimination complaint. The information packet must include the housing discrimination complaint form (form HUD-903) and families must be informed that PHA staff will provide assistance in completing the forms on request.

EXHIBIT 5-5 VERIFICATION REQUIREMENTS

Factor to be Verified	ACCEPTABLE SOURCES			Information Which Must Be Obtained/ Verification Tips	
	Third Party		Documents Provided by Applicant		
	Written	Oral			
<ul style="list-style-type: none"> • Employment Income. 	<ul style="list-style-type: none"> • Verification Form with signed Consent to Release completed by employer. 	<p>Wages and Salaries</p> <ul style="list-style-type: none"> • Telephone or in person contact with employer, specifying amount to be paid per pay period and length of pay period. Document in file by the PHA. 	<ul style="list-style-type: none"> • W-2 Forms, if applicant has had some employer for at least two years and increases can be accurately projected, or check stub or earning statements. • Paycheck stubs or earning statements. 	<ul style="list-style-type: none"> • Notarized statements or affidavits signed by applicant which describe amount & source of income. 	<ul style="list-style-type: none"> • Frequency of gross pay (i.e., hourly, bi-weekly, monthly, bi-monthly). • Anticipated increases in pay effective dates. • Require most recent 6-8 consecutive paystubs; do not use check without stub.
<ul style="list-style-type: none"> • Self-employment, tips, gratuities, etc. 	None available.	None available.	<ul style="list-style-type: none"> • Form 1040/1040A showing amount earned and employment period. 	<ul style="list-style-type: none"> • Notarized statement or affidavit signed by applicant showing amount earned and pay period. 	
<ul style="list-style-type: none"> • Income maintenance payments, benefits, income other than wages (i.e., welfare, Social Security, (SS), Supplemental Security Income (SSI), Disability Income, Pensions). 	<ul style="list-style-type: none"> • Award or benefit notification letters prepared and signed by authorizing agency. • Print-out of benefit amounts generated by PHA through automated tie-in to welfare department computers. 	<ul style="list-style-type: none"> • Telephone or in-person contact with income source, documented in file by the PHA. • Note: For all oral verification, file documentation must include facts, time & date of contract, and name & title of third party. 	<ul style="list-style-type: none"> • Current or recent check with date, amount, and check number recorded by the PHA. • Award Letters. • Copies of validated bank deposit slips/with identification by bank. • Most recent quarterly pension account statement. 		<ul style="list-style-type: none"> • Checks or automatic bank deposit slips may not provide gross amounts of benefits if applicant has deductions made for Medicare Insurance. Confirm amount of the Medicare premium with the Social Security Administration (SSA). • If local Social Security Administration (SSA) fails to provide verification, checks or automatic deposit slips may be accepted as interim verification of SS or SSI; however, the PHA must notify the HUD Field Office of SSA's refusal to verify. • Copying of U.S. Treasury checks is not permitted.

EXHIBIT 5-5 VERIFICATION REQUIREMENTS

Factor to be Verified	ACCEPTABLE SOURCES				Information Which Must Be Obtained/ Verification Tips
	Third Party		Documents Provided by Applicant	Self-Declaration	
	Written	Oral			
<ul style="list-style-type: none"> Welfare payments (as-paid states only). 	<ul style="list-style-type: none"> Verification form completed by welfare department indicating maximum amount family may receive. Maximum shelter schedule by household size with ratable reduction schedule. 	<ul style="list-style-type: none"> Telephone or in-person contact with income source, documented in file by PHA. 	<ul style="list-style-type: none"> Maximum shelter allowance schedule with ratable reduction schedule with ratable reduction schedule provided by applicant. 	<ul style="list-style-type: none"> Not appropriate. 	<ul style="list-style-type: none"> Actual welfare benefit amount not sufficient as proof of income in "as paid" states or localities since income is defined as maximum shelter amount.
<ul style="list-style-type: none"> Unemployment compensation. 	<ul style="list-style-type: none"> Verification form, with signed Consent to Release, completed by source. 	<ul style="list-style-type: none"> Telephone or in person contact with agency documented in a PHA file. 	<ul style="list-style-type: none"> Copies of checks or records from agency provided by applicant stating payment amounts and dates. Benefit notification letter signed by authorizing agency. 		<ul style="list-style-type: none"> Frequency of payments and expected length of benefit term must be verified. Income not expected to last full 12 months must be calculated based on 12 months and interim-completed when benefits stop.
<ul style="list-style-type: none"> Alimony or child support. 	<ul style="list-style-type: none"> Copy of separation or divorce agreement provided by ex-spouse or court indicating type of support, amount, and payment schedule. Written statement provided by ex-spouse or income source indicating of all of above. If applicable, written statement from court/attorney that payments are not being received and anticipated date of resumption of payments. 	<ul style="list-style-type: none"> Telephone or in person contact with ex-spouse or income source documented in file by the PHA. 	<ul style="list-style-type: none"> Copy of most recent check, recording date, amount, and check number. Recent original letters from the court. 	<ul style="list-style-type: none"> Notarized statement or affidavit signed by applicant indicating amount received. If applicable, notarized statement or affidavit from applicant indicating that payments are not being received and describing efforts to collect amounts due. 	<ul style="list-style-type: none"> Amounts awarded but not received can only be excluded from annual income when applicants have made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.
<ul style="list-style-type: none"> Recurring contributions and gifts. 	<ul style="list-style-type: none"> Notarized statement or affidavit signed by the person providing the assistance giving the purpose, dates, and value of gifts. 	<ul style="list-style-type: none"> Telephone or in person contact with source documented in file by PHA. 	<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> Notarized statement or affidavit signed by applicant stating purpose, dates, and value of gifts. 	<ul style="list-style-type: none"> Sporadic contributions and gifts are not counted as income.

EXHIBIT 5-5 VERIFICATION REQUIREMENTS

Factor to be Verified	ACCEPTABLE SOURCES			Information Which Must Be Obtained/ Verification Tips
	Third Party		Documents Provided by Applicant	
	Written	Oral		
<ul style="list-style-type: none"> Net Income for a business. 	<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> IRS Form 1040 with Schedule C, E, or F. Financial Statement(s) of the business (audited or unaudited) including an accountant's calculation of straight-line depreciation expense if accelerated depreciation was used on the tax return or financial statement. Any loan application listing income derived from business during proceeding 12 months. For rental property, copies of recent rent checks, on lease and receipts for expenses or IRS Schedule E. 	
<ul style="list-style-type: none"> Dividend income and savings account interest income. 	<ul style="list-style-type: none"> Verification form with signed consent to release, completed by bank. 	<ul style="list-style-type: none"> Telephone or in-person contact with appropriate party, documented in file by the PHA. 	<ul style="list-style-type: none"> Copies of current statements, bank passbooks, certificates of deposit, if they show required information (i.e., current rate of interest). Copies of IRS Form 1099 from the financial institution and verification of projected income for the next 12 months. Broker's quarterly statements showing value of stocks/bonds and earnings credited the applicant. 	<ul style="list-style-type: none"> Not appropriate. The PHA must obtain enough information to accurately project income over next 12 months. Verify interest rate as well as asset value.

EXHIBIT 5-5 VERIFICATION REQUIREMENTS

Factor to be Verified	ACCEPTABLE SOURCES			Information Which Must Be Obtained/ Verification Tips
	Third Party		Documents Provided by Applicant	
	Written	Oral		
<ul style="list-style-type: none"> Interest from sale of real property (e.g., contract for deed, installment sales contract, etc.) 	<ul style="list-style-type: none"> Verification form, with signed consent to release, completed by an accountant, attorney, real estate broker, the buyer, or a financial institution which has copies of the amortization schedule from which interest income for the next 12 months can be obtained. 	<ul style="list-style-type: none"> Telephone or in-person contact with appropriate party, documented in file by the PHA. 	<ul style="list-style-type: none"> Copy of the amortization schedule, with sufficient information for the PHA to determine the amount of interest to be earned during the next 12 months. Note: Copy of a check paid by the buyer to the applicant is not acceptable. 	<ul style="list-style-type: none"> Only the interest income is counted; the balance of the payment applied to the principal is merely a liquidation of the asset. The PHA must get enough information to compute the actual interest income for the next 12 months.
<ul style="list-style-type: none"> Current net family assets. 	<ul style="list-style-type: none"> Verification forms, letters or documents with signed Consent to Release, forms from financial institutions, stock brokers, real estate agents, employers indicating the current value of the assets and penalties, or reasonable costs to be incurred in order to convert non-liquid assets into cash. 	<ul style="list-style-type: none"> Telephone or in-person contact with appropriate source, documented in file by the PHA. 	<ul style="list-style-type: none"> Passbooks, checking or savings account statements, certificates of deposit, property appraisals, stock or bond documents or other financial statements completed by financial institution. Copies of real estate tax statements, if tax authority uses approximate market value. Quotes from attorneys, stock brokers, bankers, real estate agents, verifying penalties, reasonable costs incurred to convert asset to cash. Copies of real estate closing documents which indicate distribution of sales proceeds and settlement costs. 	<ul style="list-style-type: none"> Notarized statement or signed affidavit stating cash value of assets or verifying cash held at applicant's home or in safe deposit box. Use current balance in saving accounts, average monthly balance in checking accounts for last 6 months. Use cash value of all assets: the net amount the applicant would receive if the asset were converted to cash. Note: This information can usually be obtained simultaneously with income from asset verification and employment verification (value of pension).

EXHIBIT 5-5 VERIFICATION REQUIREMENTS

Factor to be Verified	ACCEPTABLE SOURCES			Information Which Must Be Obtained/ Verification Tips	
	Third Party		Documents Provided by Applicant		
	Written	Oral			
<ul style="list-style-type: none"> Assets disposed of for less than fair market value. 	<ul style="list-style-type: none"> None required. 	<ul style="list-style-type: none"> None required. 	<ul style="list-style-type: none"> None required. 	<ul style="list-style-type: none"> Certification signed by applicant that no member of family has disposed of assets for less than fair market value during preceding 2 years. If applicable, certification signed by applicant that shows: <ul style="list-style-type: none"> Type of assets disposed of, Date disposed of, Amount received, and Market value of asset at the time of disposition. 	<ul style="list-style-type: none"> Only count assets disposed of within a two year period prior to examination or re-examination.
<ul style="list-style-type: none"> Family composition. 	<ul style="list-style-type: none"> None required. 	<ul style="list-style-type: none"> None required. 	<ul style="list-style-type: none"> Income tax returns, school records, marriage certificates, birth certificates, divorce actions, Veterans Administration (VA) records, support payment records. 		
<ul style="list-style-type: none"> Family type. (Information verified only to determine eligibility for preferences and allowances.) 	<ul style="list-style-type: none"> Disability Status: statement from physician or other reliable source, if benefits documenting status are not received.) Displacement Status: Written statement or certificate of displacement by the appropriate governmental authority. 	<ul style="list-style-type: none"> Telephone or in-person contact with source documented in file by the PHA. 	<ul style="list-style-type: none"> Elderly Status (when there is reasonable doubt that applicant is at least 62): birth certificate, baptismal certificate, social security records, driver's license, census record, official record of birth or other authoritative document or receipt of SSI old age benefits or SS benefits. Disabled, blind – evidence of receipt of SSI or Disability benefits. 	<ul style="list-style-type: none"> Elderly Status: Applicant's signature on Application is generally sufficient. 	<ul style="list-style-type: none"> Unless the applicant receives income or benefits for which elderly or disabled status is a requirement, such status must be verified. Status of disabled family members must be verified for entitlement to \$480 dependent deduction and disability assistance allowance.

EXHIBIT 5-5 VERIFICATION REQUIREMENTS

Factor to be Verified	ACCEPTABLE SOURCES			Information Which Must Be Obtained/ Verification Tips	
	Third Party		Documents Provided by Applicant		
	Written	Oral			
<ul style="list-style-type: none"> Medical expenses. 	<ul style="list-style-type: none"> Verification by a doctor, hospital, or clinic, dentist, pharmacist, etc. of estimated medical costs to be incurred or regular payments expected to be made on outstanding bills which are not covered by insurance.. 	<ul style="list-style-type: none"> Telephone or in-person contact with these sources, documented in file by the PHA. 	<ul style="list-style-type: none"> Copies of cancelled checks which verify payments on outstanding medical bills which will continue for all or part of the next 12 months. Copies of income tax forms (Schedule A, IRS Form 1040) which itemize medical expenses, when the expenses are not expected to change over the next 12 months. Receipts, cancelled checks, pay stubs, which indicate health insurance premium costs, or payments to a resident attendant. Receipts or ticket stubs which verify transportation expenses directly related to medical expenses. 	<ul style="list-style-type: none"> Notarized statement or signed affidavit of transportation expenses directly related to medical treatment, if there is no other source of verification. 	<ul style="list-style-type: none"> Medical expenses are not allowable as deduction unless applicant is elderly or disabled household. Status must be verified.
<ul style="list-style-type: none"> Care attendant for disabled family members. 	<ul style="list-style-type: none"> Written verification from attendant stating amount received, frequency of payments, hours of care. Written certification from doctor or rehabilitation agency that care is necessary to employment of household member. 	<ul style="list-style-type: none"> Telephone or in-person contact with source documented in file by the PHA. 	<ul style="list-style-type: none"> Copies of receipts or cancelled checks indicating payment amount and frequency. 	<ul style="list-style-type: none"> Notarized statement or signed affidavit attesting to amounts paid. 	<ul style="list-style-type: none"> The PHA must determine if this expense is to be considered medical or disability assistance.

**EXHIBIT 5-5
VERIFICATION REQUIREMENTS**

Factor to be Verified	ACCEPTABLE SOURCES			Information Which Must Be Obtained/ Verification Tips
	Third Party		Documents Provided by Applicant	
	Written	Oral		
<ul style="list-style-type: none"> Auxiliary apparatus. 	<ul style="list-style-type: none"> Written verification from source of costs and purpose of apparatus. Written certification from doctor or rehabilitation agency that use of apparatus is necessary to employment of any household member. In case where the disabled person is employed, statement from employer that apparatus is necessary for employment. 	<ul style="list-style-type: none"> Telephone or in-person contact with these sources documented in file by the PHA. 	<ul style="list-style-type: none"> Copies of receipts or evidence of periodic payments for apparatus. 	<ul style="list-style-type: none"> The PHA must determine if expense is to be considered medical or disability assistance.
<ul style="list-style-type: none"> Child care expenses 	<ul style="list-style-type: none"> Written verification from person who provides care indicating amount of payment, hours of care, names of children, frequency of payment, and whether or not care is necessary to employment or education. 	<ul style="list-style-type: none"> Telephone or in-person contact with these sources documented in file by the PHA. 	<ul style="list-style-type: none"> Copies of receipts or cancelled checks indicating payments. 	<ul style="list-style-type: none"> Allowance provided only for care of children 12 and younger When same care provider takes care of children and disabled person, the PHA must pro-rate expenses accordingly. PHAs should keep in mind that costs may be higher in summer months, and during holiday periods. The PHA must determine which household member has been enabled to work. Care for employment and education must be prorated to compare to earnings. Costs must be “reasonable”.

**EXHIBIT 5-5
VERIFICATION REQUIREMENTS**

Factor to be Verified	ACCEPTABLE SOURCES			Information Which Must Be Obtained/ Verification Tips
	Third Party		Documents Provided by Applicant	
	Written	Oral		
<ul style="list-style-type: none"> • Full-time student status (of family member 18 or older, excluding head, spouse, or foster children). 	<ul style="list-style-type: none"> • Verification from the Admissions or Registrar’s Office or dean, counselor, advisor, etc. or from VA Office. 	<ul style="list-style-type: none"> • Telephone or in-person contact with these sources documented in file by the PHA. 	<ul style="list-style-type: none"> • School records, such as paid fee statements, which show a sufficient number of credits to be considered a full-time student by the educational institution attended. 	
	<ul style="list-style-type: none"> • Verification from reliable medical source. 	<ul style="list-style-type: none"> • Telephone or in-person contact with these sources documented in file by the PHA. 		