




Housing Opportunity through Modernization Act (HOTMA)
Coalition on Homelessness and Housing in Ohio

[f](#) [t](#) [in](#) [The Ohio State University](#)

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Housing Opportunity Through Modernization Act of 2016


- What's a HOTMA?
 - Public Law 114-201, signed July 29, 2016
 - Technical Improvements to housing assistance programs
- Programs Impacted
 - Vouchers
 - Public Housing
 - Rural Housing
 - Condo Insurance
 - Homelessness Programs
 - Manufactured Housing



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Implementation

- Initial Implementation Guidance
 - 81 FR 73030, October 24, 2016
- Implementation of the Housing Opportunity Through Modernization Act Changes to the Housing Opportunities for Persons With AIDS Program
 - Notice CPD 16-17
- Implementation and Request for Guidance – Voucher Provisions
 - 82 FR 5458, January 18, 2017, effective April 18, 2017



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Income Eligibility

Status:
Additional guidance needed to implement

- Over Income: If a family in public housing has an income >120% AMI for >2 consecutive years, PHA must:
 - Terminate the tenancy; OR
 - Charge the family rent equal to **the greater of** the HUD-determined Fair Market Rent for the units **and** the operating and capital subsidies provided for the unit.


In most geographic areas, voucher assistance phases out at an income level well below the eligibility ceiling of 80% of area median because 30% of the family's income exceeds the subsidy level

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Income Eligibility

Rulemaking required on asset limitations


- Assets:**
 - Families with assets >\$100,000 are ineligible
 - Families with a "present ownership interest" in a suitable home also ineligible
 - PHA can adopt policy not to enforce or to delay evictions

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Income Calculation

Status:
Will be implemented by notice of rulemaking.
Effective first of year after guidance issued.

- Prior Year:** Use prior year income, except in initial certification and interim adjustments
 - Eliminates earned income disregard for disabled public housing residents
 - Excludes expenses related to aid and attendance to veterans who are in need of regular aid and attendance
 - Assets – actual income included, but imputed only if assets exceed \$50,000 (up from \$5,000)
- Allows agencies and owners to rely on determinations of income conducted for other federal means-tested public assistance programs, including TANF, Medicaid, and Food Stamps.


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Income Certification Changes

Status:
Will be implemented by notice or rulemaking.

Effective first of year after guidance issued.

- **Recertification**
 - Families on fixed income (90% income plus)- every 3 years
 - Everyone else - annually
- **Interim Adjustments**
 - Decreased income
 - At tenant request and decrease of 10% or greater
 - Increased Income
 - Required upon an increase of 10% or greater
 - BUT interim increases based on earnings required only if there was a decrease
- PHA may elect not to make interim adjustments in last three months before recertification


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Income Calculation - Deductions

Status:
Will be implemented by notice or rulemaking.

Effective first of year after guidance issued.


- **Deductions**
 - Dependent deduction remains at \$480- inflation adjusted in future years.
 - Increases standard deduction for elderly and disabled families (\$400 to \$525) with future inflation adjustments
 - Limits deduction for medical, attendant care and auxiliary aid expenses to expenses exceeding 10 percent of income (hardship exemptions – rule to be published)

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Rents and Payment Standards

Provisions effective upon enactment. Future guidance on protecting current tenants.

- Changes requirements for publication of FMRs and opportunity for comment
- Protecting current voucher holders: when FMRs drop, PHAs are permitted to continue to use payment standards based on the pre-reduction FMRs for as long as a family remains in the same unit
- Allows higher payment standard as reasonable accommodation without prior HUD approval (<120%FMR)


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Vouchers – Inspections

Status:
Implemented by 82 FR 5458
Effective April 2017

Doesn't implement enforcement/ non-compliance provisions

- All Units must still meet HQS
- Where there are non-life threatening deficiencies
 - Tenant can move in
 - PHA can commence of HAP payment
 - Deficiencies must be corrected within 30 days
 - Can't continue more than 180 days with uncorrected deficiencies
- Where if property has passed a qualified alternative inspection in last 24 months
 - Tenant can move in
 - Payments don't flow until the PHA inspects, but can be retroactive




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Vouchers –Inspections/Implementation

Status:
Implemented by 82 FR 5458
Effective April 2017

- HUD Defines Non-Life Threatening/Life Threatening Conditions
- Implementation Requirements
 - Amend Administrative Plan
 - Notification of Owners, Tenants and HUD




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Vouchers –Alternative Inspections

Status:
Implemented by 82 FR 5458
Effective April 2017

- Eligible Alternative Inspection
 - PHA can access results
 - Voucher unit was in the sample
 - HOME, LIHTC other HUD inspections permitted without approval
 - Other forms of alternative inspection must be approved by REAC
- Implementation Requirements
 - Amend administrative plan
 - Notification of Owners, Tenants and HUD




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Voucher Units Owned by a PHA

Status:
Implemented by 82 FR 5458
Effective April 2017


- Articulating a New Definition of PHA Owned
 - Owned by PHA or entity wholly owned by PHA
 - Owned by LLC or LP in which PHA holds a controlling interest in Manager or GP
 - Controlling Interest is 50% or more of stock
 - Power to appoint 50% or more of board in nonstock corporation
 - 50% or more of board are directors, officers or employees of PHA
 - 50% of more of interests in Managing Member or GP
- Need a legal opinion to change classification
- If ownership changes to make PHA owned, must identify an independent entity in writing

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Project Based Vouchers

Status:
Implemented by 82 FR 5458
Effective April 2017


- Program Limit (Max PBV in the PHA's HCV Program)
 - 20% of its number of vouchers (previously based on dollars)
- Additional 10% for certain exception units
 - Formerly homeless, veterans, elderly, people with disabilities, low poverty census tract
 - Only applies for PBV contracts executed after the April effective date
 - Must notify HUD

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Project Based Vouchers

Status:
Implemented by 82 FR 5458
Effective April 2017

- Program Limit (Max PBV in the PHA's HCV Program)
 - Exemptions (not subject to limit)
 - In 5 years prior to issuance or RFP received HUD assistance or subject to rent restriction from a HUD program
 - Replacement units for one of the excepted forms
 - Located on same site as unit is replacing- new boundaries permitted if majority on site
 - Can't exceed total number of covered units in original property by unit size configuration can change


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Project Based Vouchers: Income Mixing

Status:
Implemented by 82 FR 5458
Effective April 2017

- PBV in no more than greater of 25% or 25 units at a property
- Exceptions
 - Units exclusively serving the elderly
 - Supportive services
 - Low poverty census tract
 - Properties under the previous exceptions are grandfathered
- Exemptions
 - Same as for Program Limitations

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Project Based Voucher Contract Terms

Status:
Implemented by 82 FR 5458
Effective April 2017

- Initial Term of HAP Contract increased from 15 to 20 years
 - 20 year extension possible
 - Can extend properties in their initial term
- Priority for PBV Funding - PHA must take all cost saving measures before terminating
- Biennial Inspection Requirement
 - May use 20% sampling of units
- Additional Units Without Competition now permitted
- Additional Contract Conditions
 - None at this time
 - Clarifying TBV eligibility




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Preference for Families Who Qualify for Voluntary Services

Status:
Implemented by 82 FR 5458
Effective April 2017

- PHA may establish selection preference of families who qualify for voluntary services including disability specific services.
 - Example: housekeeping, case management, child care, education, nutrition, mental health, personal assistance
- Previously could give preference for disability regardless of eligibility for services
- Prohibition on disability specific preference still applies



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Preference for Families Who Qualify for Voluntary Services

Status:
Implemented
by 82 FR
5458
Effective April
2017

- Must be consistent with PHA plan
 - Plan preferences reviewed by FHEO and OGC
- Consistent with Integration Mandate
- Informed Client Choice and Self-Determination
 - Participation in services is voluntary
 - Can't be denied continued occupancy for change in circumstance



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Project-Basing Special Purpose Vouchers

Status:
Implemented
by 82 FR
5458
Effective April
2017

- May project base in accordance with standard PBV rules:
 - HUD-VASH Vouchers
 - Consult with VA to make sure that they can still provide service
 - Family Unification Program Vouchers
 - May limited to one category of family (eg FUP youth)



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Using Vouchers in Manufactured Housing

Status:
Implemented
by 82 FR
5458
Effective April
2017

- Applies to manufactured homes owned by occupant
 - "Rent" for voucher purposes can now include
 - Monthly amortized cost of purchasing manufactured home, maintenance and management charges for space, utility allowances
- Monthly HAP is the lower of
 - Payment standard – TTP
 - Lot Rent + other eligible housing expenses - TTP




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Using Vouchers in Manufactured Housing

Status:
Implemented by 82 FR 6488
Effective April 2017


- Limitations
 - Manufactured Housing is a "special housing type"
 - PHA is not required to allow use of vouchers in manufactured housing, except as reasonable accommodation
 - If the PHA allows it, the new definition must be applied at next reexamination- doesn't kick in right away
 - Provision not implemented: option of making full payment directly to family



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Homelessness and Veterans

- Continuum of Care
 - Definition of Geographic Area to be changed by notice (*in progress*)
- Emergency Solutions Grants
 - Authorize local governments that receive ESG funds to subaward all or a portion of those funds to public housing agencies (*effective immediately, but HUD guidance forthcoming*)
- Transfers Special Assistant for Veterans Affairs
 - From DAS for Office of Special Needs to Office of Secretary
- Annual Supplemental Report on Veteran Homelessness
 - Report to Congress from HUD and VA with help from USICH
- Re-opened comment period for Continuum of Care regulation




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Housing Opportunities for Persons with AIDS

Notice CPD 16-17

- Updates HOPWA funding formula
 - 75% of funding based on population
 - Currently counts all cases back to 1981
 - Updates will count people living with HIV/AIDS
 - Better serves communities with increasing populations
 - 25% based on the relative housing costs and poverty rates
- Changes to definition of eligible communities (1,500 to 2,000)
- Allows alternative grantees
- Eliminate min grant amount (\$200K)
- Will impact formula allocations for FY2017
- Reallocation permitted (rulemaking needed)




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Family Unification Program

Provisions effective upon enactment.
Future guidance on coordination between agencies

- Extended to former foster youth up to age 24 and to otherwise eligible youth who will leave foster care within 90 days and are homeless or at risk of homelessness.
- Extends the period for which youth who have left foster care may receive assistance to 36 months.
- Requires HUD, in consultation with other agencies, to issue guidance to improve coordination between housing and child welfare agencies in administering FUP




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Public Housing

Status:
Technically effective upon enactment, but more guidance needed to implement

- New flexibilities for PHAs in use of HUD money
- Agencies can transfer up to 20% of operating funds appropriated for FY16 and beyond to the capital fund.
- Agencies may establish public housing replacement reserves using capital funds
 - Other sources at HUD discretion
 - May not hold replacement reserves beyond the amount needed to cover anticipated capital needs.
 - HUD can cap replacement reserve levels.




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Utilities

Not implemented

- Requires HUD to regularly publish data regarding utility consumption and costs. Applies to data that
 - can be collected cost-effectively; and
 - that HUD determines will be useful for setting voucher utility allowances
- Data to be provided without unnecessary administrative burdens for agencies and protects families from high rent and utility cost burdens relative to income
- Also directs HUD to provide model heating guidelines for public housing



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Other Changes in HOTMA

- Modifications of Mortgage Requirements for Condos
 - Streamline mortgage eligibility recertification process
 - Guidance on exceptions to commercial space restrictions
 - Update guidance on owner-occupancy requirement (35%)
- Rural Housing
 - Allows delegation of guarantee authority to approved lenders
 - Guaranteed Underwriting Fee- new fee on single family loans
- Single Family Energy Efficiency
 - Limits application of energy efficiency standards in SHOP properties
- Data Standards and Exchange Provisions
- Requires annual HUD/DoL Report
 - Strategies to improve family economic empowerment by linking housing assistance with essential supportive services



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