

# HUD Proposes New Verification Rule

HUD recently proposed a new rule that would clarify the practices you may already be using for your recertifications and tenant information verification. The proposed rule appeared in the Federal Register on June 19, 2007 and the comment deadline is August 20, 2007.

The rule proposes to revise 24 CFR Part 5 and clarify how required social security numbers (SSNs) affect eligibility for assistance for all family members. The rule would also change the definition of "annual income," clarify the requirements for verification of SSNs and income using upfront income verification (UIV) systems, and sets sanctions for failure to comply with the rule. This article summarizes the main provisions of the proposed rule.

## **SSN Is An Eligibility Requirement**

Under the proposed rule, all family members must produce an SSN to qualify for assistance, thus eliminating the old threshold of 6 years of age. PHAs will also be required to obtain verification documentation of each family member's SSN. The rule would specify that the required documentation is "a valid SSN card issued by the Social Security Administration (SSA), or such other evidence of the SSN as HUD and, where applicable, the PHA may prescribe in administrative instructions."

In truth, very few third-party documents today include SSNs. So, other than a verification letter from the Social Security Administration, neither HUD nor the PHAs will have many other options to verify SSNs.

The proposed rule also sets a specific timeframe for the family members to produce their SSN. The proposal states that the PHA may provide assistance for a family member who is otherwise eligible, but they must produce the SSN and documentation within "60 calendar days from the date of application submission or the effective date of the reexamination." The PHA may extend this period up to an additional 60 days but only for an elderly person who is "unable to submit the required documentation within the initial 60-day period."

Driving the point home that a valid SSN for all family members is an eligibility requirement, the proposed rule goes on to state that the PHA "must terminate assistance or tenancy, or both, of a participant . . . if the participant does not meet the applicable SSN disclosure, documentation, and verification requirements specified in [the rule]." It also appears from the proposal that if you terminate the family's assistance mid-month, you must prorate the assistance.

## **'Annual Income' Redefined**

Under this proposal, "annual income," HUD recently proposed a new rule that would clarify the practices you may already be using for your recertifications and tenant information verification. The proposed rule appeared in the Federal Register on June 19, 2007 and the comment deadline is August 20, 2007.

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### **'Annual Income' Redefined**

Under this proposal, "annual income," for purposes of the examination process, would be redefined to mean "all amounts, monetary or not, which (1) go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member, or (2) are amounts received from a source outside the family during the 12 month period prior to admission or the annual reexamination effective date. . ."

The main change here is to allow the PHA to focus on, and verify, actual income received by the family member in the 12 months prior to the admission or the reexamination date. This alleviates the difficulty of attempting to project the family's income for a future period of 12 months under the current rules.

### **Mandated Use Of EIV**

Under this proposal PHAs administering Public Housing, HCV, mod-rehab, project-based vouchers and certificates and project-based multi-family housing must verify tenant income before or during the family's initial examination and reexamination using an "independent computer-matching income source" such as EIV. PHAs can use EIV or they can use data obtained through computer matching agreements they have established with a federal, state or local government agency, or a private agency.

The proposed rule also makes clear HUD's intention that computer matching systems like EIV are NOT supplementary to other third-party verification options, but they replace those "more time consuming and less accurate" options. It is clearly HUD's intention that PHAs should use public and private computer-based income verification systems as the sole source of family income verification in most instances.

So for admissions, private sources like the Work Number are available for income verification. You may also have an agreement in your state with a state agency to provide this information. For reexaminations, EIV would be your main source of income verification, supplemented by other private sources. In cases where computer-based data is not available, or the data is more than 12 months old, or the tenant disputes the data, the PHA will have to fall back on the traditional third-party verification sources.

Since annual income has been redefined to mean income received during the 12 month period prior to admission, in the case of the initial examination, or prior to the effective date of the examination in the case of reexaminations, use of actual income data from sources like the Work Number or EIV is more consistent with the verification requirement. But the proposed rule includes two caveats to the new timeframe for annual income. First, any data older than 12 months contained in the EIV system must be ignored in verifying income. Second, if the PHA "believes that the most recent income data documents a change in the family's income, [the PHA] must use and annualize this income data to determine the family's annual income for the 12 month period."

Since the most current EIV data is at best 3 months old (and usually 6 months old), this provision may imply that PHAs still must collect current income verification documentation from the family member (e.g., recent pay stubs) and use that to determine whether there has been a recent change in income.

### **Proof Of Legal Status**

Proof of US citizenship or legal status is still required under the proposed rule along with the current 214 declaration. The rule lists source of proof to include, but not limited to, a US birth certificate, US passport, social security card, Alien Registration card, Employment Authorization card and Temporary Resident card. Once again, the proposed rule emphasizes that, like SSNs, legal status is a condition of eligibility.

According to the Federal Register notice, "the rule proposes to eliminate temporary deferrals of termination of assistance for families with noncitizen members." In fact, only families that include "refugees" under section 207 of the Naturalization and Immigration Act, or an individual seeking asylum under that law may be temporarily eligible for assistance. The proposed rule states that "the deferral period for all other families with noncitizen members has expired."

### **Record Keeping and Penalties**

The proposed rule restates the requirement for creation, storage and electronic filing of the 50058 form on admission and at least annually as a record of the certification. But the rule would add a specific requirement that PHAs maintain copies of the 50058s for at least 3 years after termination of assistance.

Perhaps as emphasis of HUD's value of using EIV and other public and private electronic income verification systems, the proposed rule also states that "failure to implement a UIV process may result in the assessment of disallowed costs and/or sanctions against the [PHA]."

For the most part, HUD's new proposal is a "conforming" rule inasmuch as most of PHAs are already using these practices today. The real change is that the rule makes it clear, with two very narrow exceptions, that you can no longer provide Public Housing, Housing Choice Voucher or Multi-family assistance for anyone who cannot produce a valid SSN backed up with required verification documentation. And you must terminate assistance for anyone on your program currently who cannot meet those requirements.