



SSN Eligibility Requirement and EIV Implementation Rule

On December 21, 2009, HUD issued a final rule for Implementation of the Enterprise Income Verification (EIV) system. The new rule is effective January 31, 2010. The following article outlines the requirements of the new rule.

SSN Disclosure As A Condition of Eligibility

The new rule mandates disclosure of Social Security Numbers (SSN) in the following circumstances:

- 1) Applicants can be added to waiting lists for assistance programs without having disclosed their SSN, but cannot become participants until they provide the SSN and documentation. (HUD plans to issue later guidance about how long a non-disclosing family can remain on the list, but HUD comments to the rule indicate that non-disclosing families should be skipped over by compliant families when units become available.) Applicants to the Section 8 Mod Rehab, Single Room Occupancy (SRO) Program for Homeless have up to 90 days from the date of admission to provide their SSN verification documentation. The PHA is required to grant one additional 90 day period to these SRO applicants if it determines, in its discretion, that the failure to comply could not have been reasonably foreseen and was outside the control of the applicant.
- 2) If the eligibility determination of a current participant had been started prior to January 31, 2010 (the effective date of the rule), they do not need to resubmit their SSN and documentation, unless:
 - a. The SSN was not previously disclosed
 - b. The previously disclosed SSN was determined to be invalid by EIV
 - c. The participant was issued a new SSN since the original SSN was provided.

Participants who are aged 62 and older as of January 31, 2010 are exempt from the SSN disclosure under this rule. (This provision is intended to reduce the burden of the rule on the elderly who are current participants but does not apply to elderly who apply for assistance after the effective date of the rule.)

- 3) Once any participant has provided their SSN and it has been verified, they do not need to provide it again, unless the participant is issued a new SSN. (Although the rule does not address this issue, a participant who has been issued a new SS card with a name change also should provide the new card.)
- 4) When requesting to add a new member to the household:

- a. For a new member who is at least 6 years of age (or a new member under 6 years who already has an SSN), the SSN and documentation must be provided by the time of the recertification that includes the new family member.
 - b. For a new member who is under 6 years of age and does not already have an SSN, the SSN and documentation must be provided within 90 days of the child being added to the household.
- 5) If a family member does not contend eligible immigration status, they can be admitted to the program without an SSN, but rent proration rules apply. According to HUD's comments to the rule, proration of assistance applies only to those who do not contend eligible immigration status and are part of a family that is otherwise in compliance with the disclosure requirements. You cannot prorate assistance for non-immigrant family members who simply fail to comply with the disclosure requirement.
- 6) According to the comments accompanying the rule, live-in aides and foster children must provide an SSN.

Extension of Time to Comply

For certain persons, the PHA is required to extend an additional 90 day period to comply with the SSN disclosure requirement if the PHA determines, in its discretion, that the failure to comply could not have been reasonably foreseen and was outside the control of the applicant or participant. This extension of time to comply only applies to:

- 1) Applicants to the Section 8 Mod Rehab Single Room Occupancy (SRO) Program for Homeless, and
- 2) New household members under 6 years of age.

The PHA may, but is not required to, provide a participant who has not previously provided a valid SSN an additional 90 days to comply but only if, in its discretion, the PHA determines that:

- 1) Failure to comply was due to circumstances that could not have been foreseen and were outside the control of the participant, and
- 2) There is a reasonable likelihood that participant will be able to provide a valid SSN by the new deadline.

Required Documentation

The documentation necessary to verify the SSN is:

- 1) A valid SSN card issues by the Social Security Administration, or
- 2) An original document issued by a federal or state agency which contains the name and SSN of the individual, along with other identifying information of the individual.

Since most government documents no longer disclose SSNs in order to protect identities, the SSN card will be the document of choice in most cases.

Penalties For Failure To Disclose SSN

Under the new rule, PHAs must deny eligibility of an applicant if the applicant or any non-immigrant family member fails to provide a valid SSN and the required verification documentation by the regulatory deadline. Until further guidance is issued by HUD, it appears that non-compliant applicants can remain on the waiting list indefinitely.

According to the new rule, the PHA must terminate the assistance of a non-compliant participant and the participant's household if the participant fails to provide a valid SSN and required documentation by the regulatory deadline. The rule is clear that the penalty applies to the entire household.

Mandated Use Of EIV

The new rule requires that PHAs administering Public Housing, Housing Choice Voucher and project-based Section 8 programs use the EIV system "in its entirety" to verify tenant employment and income during mandatory recertifications of income and to reduce subsidy payment errors.

According to HUD, "in its entirety" means that PHAs are required to verify the employment and income of existing tenants at the time of all mandatory recertifications and use the reports available in EIV such as the Failed Verification Report, the Deceased Tenant Report, the Multiple Subsidy Report and the Discrepancy Report in order to reduce subsidy payment errors.

Penalties for failure to use the EIV system include the imposition of sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculation or both.

In the preamble to the rule, HUD recognizes that EIV is not perfect and that employment and income data is not available for new admissions. HUD also indicated that it plans to issue new guidance on the use of EIV in the near future. This guidance will include a timeframe for consulting EIV after the admission to confirm that employment and income information provided at admission was accurate.

Record Retention Rule

The final rule clarifies the record retention requirements for HUD Form 50058 and supporting documentation. The rule states that PHAs must retain these documents for a period of at least 3 years from the end of participation date. The rule also explicitly states that electronic retention of Form 50058 and supporting documentation fulfills the record retention requirement.

For those using Tenmast software, your Occupancy and Rent Calculation program retains an electronic copy of all 50058 records you create as long as you are using our software. If you also use our TenDocs document imaging system to capture supporting documentation in the archive, then you will have a complete set of documents in electronic form that are required to be retained under the new rule.