

UPDATED POLICY INFORMATION

ADDENDUM I

McDonough Housing Authority

Public Housing Over-Income Limit Policy under the (HOTMA)

Housing Opportunity Through Modernization Act of 2016

Purpose

The purpose of this policy is to provide information on the implementation process for public housing income limits brought about by HOTMA and detailed in Federal Register Notice (83 F.R. 35490) published July 26, 2018 (2018 FR Notice).

Section 103 of HOTMA requires HUD to issue a proposed rule, which include guidelines for how PHAs are to set their rent policies for over-income families after the two-year grace period for being over-income has ended.

HOTMA was signed into law on July 29, 2016 (Public Law 114-201, 130 Stat. 782); section 103 of HOTMA amends section 16(a) of the United States Housing Act of 1937 (42 U.S.C. 1437n(a)) (1937 Act) and establishes an income limitation for continued occupancy in public housing. The law requires that after a family's income has exceeded 120 percent of the area median income (AMI) (or a different limitation as may be established by the Secretary) for two consecutive years (the "grace period"), a PHA must terminate the family's tenancy within 6 months of the second income determination or charge the family a monthly rent equal to the greater of: (1) the applicable Fair Market Rent (FMR); or (2) the amount of monthly subsidy for the unit, including amounts from the operating and capital fund, as determined by regulations. For purposes of this document, the income limit established by HOTMA will be referred to as the "over-income limit."

McDonough Housing Authority is required to establish policies for continued occupancy in public housing. Through the development of those policies, MHA can consider specific circumstances in which we would provide for flexibility in the administration of over-income requirements, provided such policies are in compliance with the 1937 Act and all applicable fair housing requirements. PHAs are subject to, among other fair housing and civil rights authorities, Section 504 of the Rehabilitation Act (Section 504), the Fair Housing Act, and Title II of the Americans with Disabilities Act (ADA), which include, among other requirements, the obligation to grant reasonable accommodations that may be necessary for persons with disabilities.

Definition of Over-Income

The new language in section 16(a)(5) of the 1937 Act sets the over-income limit at 120 percent of the AMI (Area Median Income).

HUD's income limits were developed by HUD's Office of Policy Development and Research and are updated annually. Information about HUD's income limits and HUD's methodology for

adjusting income limits as part of the income limit calculation can be found at <https://www.huduser.gov/portal/datasets/il.html>.

Effective Date of Over-Income Limits and Integration into the Admissions and Continued Occupancy Policies (ACOP)

ACOP. PHAs must update their Admissions and Continued Occupancy Policies (ACOP) to implement these changes no later than 6 months after the applicable date of the 2018 FR Notice. Such policies must include the imposition of an over-income limit in the program, clear descriptions of all instances of when the two-year timeframe begins, and the notification requirements put forth by section 103 of HOTMA.

McDonough Housing Authority opt to implement the over the income limit rule at interim recertification or annual recertification whichever is first.

PHA Plans and Significant Amendments. If the implementation of this provision requires a significant amendment to the MHA annual plan, as determined by the MHA definition of a significant amendment, the MHA must immediately take steps to complete the significant amendment process to effectuate the policy change. MHA will complete all relevant MHA plan changes no later than 6 months after the applicable date of the 2018 FR Notice.

Updates. Going forward, MHA must also update the over-income limits in their ACOPs no later than 60 days after HUD publishes new income limits each year.

Timing. It should be noted that MHA will first complete the process for amending their ACOP within six months after the applicable date of the 2018 FR Notice (Sept. 24, 2018) before implementing the over-income policy. Interim and annual reexaminations that take place after completion of the policy amendment must apply the over-income limit. Therefore, any family that is deemed over-income because of an interim and/or annual reexamination that takes place on the earlier of the date the ACOP and/or PHA Plan is amended or March 24, 2019 will be subject to the appropriate over-income limit.

Documentation, Notification, and Tracking

Documentation. Once MHA has completed updates to its ACOP and, if necessary, its PHA plan, and the MHA discovers through an annual reexamination or an interim reexamination that a family's income exceeds the applicable over-income limit, the MHA must document that the family exceeds the threshold and make a note in the tenant file to compare it with the family's income a year later.¹ The form HUD-50058 actions that would trigger the two-year grace period are: '2 = Annual Reexamination' and '3 = Interim Reexamination.' The MHA is required to begin tracking these actions once a family's income exceeds the applicable over-income limit.

Written Notifications/Tracking 2-Year Grace Periods. If one year after the initial over-income finding by the MHA, the family's income continues to exceed the over-income limit, the MHA will provide written notification to the family.² This notification must inform the family that their income has exceeded the over-income limit for one year, and if the family's income continues to exceed the over-income limit for the next 12 consecutive months, the family will be subject to either a higher rent or termination based on the PHA's policies. If the initial over

income determination was made during an interim reexamination, the MHA will conduct a second interim income reexamination on that date one year later. However, if the MHA discovers through an annual or interim reexamination that a previously over-income family has income that is now below the over-income limit, the family is no longer subject to these provisions. A previously over-income family would be entitled to a new two-year grace period if the family's income once again exceeds the over-income limit. The MHA must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. The MHA must ensure effective communication using appropriate auxiliary aids and services, such as interpreters, transcription services, brailled materials, large print, and accessible electronic communications, in accordance with Section 504 and ADA requirements. 24 C.F.R. § 8.6 and § 8.28; 28 CFR part 35, Subpart E. This includes the availability, free of charge, of sign language or other types of interpretation. For persons with vision impairments, upon request, this may include materials in braille or on tape.

Terminations and Higher Rent Payments. Twelve months after the second consecutive over income finding, if the family is still over-income, the family is subject to termination or higher rental payments. As previously stated, HUD will provide additional information and guidelines for PHAs to set alternative rents for over-income families that the PHA has allowed to remain in public housing, and any other guidance regarding this provision in a forthcoming notice.

Families not permitted to stay by the MHA must have their tenancy terminated no later than six months after the second over-income finding by the MHA.

Implementation of proposed over the income limit rule will cause minimal imposition to the staff and the affected residents. As staff is allowed ample time to make the appropriate examination and notification. Residents will be notified of status in eligibility changes in a timely manner.