

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR PARTS 5 and 982

[Docket No. FR-4608-F-04]

RIN 2501-AC72

Determining Adjusted Income in HUD Programs Serving Persons With Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income—Technical Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; corrections.

SUMMARY: This document makes two technical corrections to the final rule published on January 19, 2001, that amended HUD's regulations in part 5, subpart F, to disregard certain increases in earned income to persons with disabilities in specific HUD programs.

EFFECTIVE DATE: March 15, 2002.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

On January 19, 2001 (66 FR 6218), the Department published a final rule in the **Federal Register** that disregarded certain increases in earned income to persons with disabilities served by the following HUD programs—HOME Investment Partnerships, Housing Opportunities for Persons with AIDS, Supportive Housing, and Housing Choice Voucher. As explained in the final rule, “HUD proposed these benefit extensions to persons with disabilities because HUD believes that these deductions and the disregard of earned income constitute an important step in helping persons with disabilities find employment and retain employment.” Since publication of the January 19, 2001 rule, two technical errors have been identified and they are described below.

II. Technical Corrections Made by This Rule

A. Definition of “Qualified Family”

In defining the term “qualified family” in the January 19, 2001 final rule (66 FR 6218), § 5.617 (b) refers to a “disabled family”—defined in 24 CFR 5.403 as a family whose head, spouse or

sole member is a person with disabilities. The definition of “qualified family” as it appears in § 5.617 of the January 19, 2001 final rule is in error. The definition of a qualified family was intended to mirror the provisions of § 960.255 for the public housing program and provide that a qualified family includes any family residing in housing assisted under one of the included programs whose annual income increases as a result of employment of a family member who is a person with disabilities eligible for the disallowance. To clarify that a qualified family is not limited to a family in which the head of household or spouse is disabled, the word “disabled” has been removed from the definition of “qualified family” as it now appears in § 5.617. With this revision, the definition of “qualified family” will now read: “A family residing in housing

B. Applicability of the “Disallowance”

This document makes a further correction to clarify that the January 19, 2001 final rule intended to cover only families who are already tenants receiving assistance under one of the HUD programs identified in the rule, and not to applicants for such assistance. The final rule, at § 982.201(b)(3), refers to the annual income of an applicant family rather than of a participant family.

The Department did not intend, in promulgating the January 19, 2001 final rule, to extend the benefits of the rule to applicants. The limitation is consistent with the provision in § 960.255 (c), which states that “The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program * * *.” Section 5.617 (d), in identical language, also makes the disallowance inapplicable to applicants.

Accordingly, this document removes the reference in § 982.201(b)(3) to an “applicant family,” substituting therefor the term “participant family.” As corrected, § 982.201(b)(3) now reads:

The annual income (gross income) of a participant family is used both for determination of income eligibility under paragraph (b)(1) of this section and for targeting under paragraph (b)(2)(i) of this section. In determining annual income of a participant family which includes persons with disabilities, the determination must include the disallowance of increase in annual income as provided in 24 CFR 5.617, if applicable.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social Security, Unemployment, Wages.

24 CFR Part 982

Grant programs—housing and community development, Grant program Indians, Public Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 5 and 982 are corrected by making the following correcting amendments:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U. S. C. 3535 (d).

2. Section 5.617 is amended by revising the definition of *Qualified family* in paragraph (b) to read as follows:

§ 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

* * * * *

(b) * * *

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

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PART 982—SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

3. The authority citation for part 982 continues to read as follows:

Authority: 42 U. S. C. 1437f and 42 U. S. C. 3535(d).

4. Section 982.201 is amended by revising paragraph (b)(3) to read as follows:

§ 982.201 Eligibility and targeting.

* * * * *

(b) * * *

(3) The annual income (gross income) of a participant family is used both for determination of income-eligibility under paragraph (b)(1) of this section

and for targeting under paragraph (b)(2)(i) of this section. In determining annual income of a participant family which includes persons with disabilities, the determination must

include the disallowance of increase in annual income as provided in 24 CFR 5.617, if applicable.

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Dated: February 6, 2002.

Mel Martinez,

Secretary.

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