

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart B—[Amended]

■ 4. The authority citation for subpart B of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

■ 5. Amend § 416.216 by revising paragraph (a) to read as follows:

§ 416.216 You are a child of armed forces personnel living overseas.

(a) *General Rule.* For purposes of this part, *overseas* means any location outside the United States as defined in § 416.215; i.e., the 50 States, the District of Columbia and the Northern Mariana Islands. You may be eligible for SSI benefits if you live overseas and if—

(1) You are a child as described in § 416.1856;

(2) You are a citizen of the United States; and

(3) You are living with a parent as described in § 416.1881 who is a member of the armed forces of the United States assigned to permanent duty ashore overseas.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 990

[Docket No. FR–4874–C–09]

RIN 2577–AC51

Revisions to the Public Housing Operating Fund Program; Correction to Formula Implementation Date

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; correction.

SUMMARY: This document corrects HUD's final rule published on September 19, 2005, that implements revisions to the public housing Operating Fund Program. The final rule includes dates from the proposed rule that assumed both an initial implementation of the revised formula in fiscal year (FY) 2006 and a one-year period for PHAs to transition to the new

formula. In converting the rule from a proposed to final rule, HUD unintentionally failed to revise certain dates to reflect the updated schedule for implementation of the revised formula. Accordingly, the September 19, 2005, final rule inadvertently denies PHAs the one-year transition period. This document corrects the September 19, 2005, final rule to provide that the revised allocation formula will be implemented for calendar year 2007, and adjusts the related dates specified in the rule to reflect the corrected implementation date.

EFFECTIVE DATE: The final rule is effective on November 18, 2005.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Hanson, Public Housing Financial Management Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410; telephone (202) 475–7949 (this telephone number is not toll-free). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On September 19, 2005, (70 FR 54983), HUD published a final rule amending the regulations of the Public Housing Operating Fund Program at 24 CFR part 990, to provide a new formula for distributing operating subsidy to public housing agencies (PHAs) and establish requirements for PHAs to convert to asset management. More detailed information about this rule can be found in the preamble to the September 19, 2005, final rule.

II. This Document

The September 19, 2005, final rule establishes several requirements and determinations connected to the calendar year in which the distribution of operating subsidies will be made. Some of the dates in the final rule were carried over from the proposed rule and assumed both an initial implementation of the revised formula in FY2006, and a one-year transition period prior to implementation of the new formula.

Given the timing of publication and the effective date of the final rule, initial implementation of the revised formula must be deferred to calendar year 2007 in order to provide PHAs with the necessary one year transition period. However, in converting this rule from a proposed rule to a final rule, HUD inadvertently failed to revise certain

dates to reflect the updated schedule for implementation of the new formula, and unintentionally denied PHAs the one-year transition period.

This document corrects certain provisions in the September 19, 2005, final rule to appropriately reflect initial implementation of the revised Operating Fund formula in calendar year 2007. The corrections made by this document are necessary to assist PHAs in proper budgetary planning and to bring their policies and procedures into compliance with the new formula requirements. The effective date of the rule remains November 18, 2005, and all other dates contained in the final rule that do not affect the new formula allocation of operating subsidies are unchanged.

The following section of this document describes the most significant corrections being made to the September 19, 2005, final rule.

III. Corrections to the September 19, 2005, Final Rule

Revised subpart F of 24 CFR part 990 establishes procedures to assist PHAs in transitioning to the new funding levels under the new Operating Fund formula. As provided in § 990.225 of the final rule, the determination of the amount and period of the transition funding will be based on the difference in subsidy levels between the revised formula and the formula in effect prior to implementation of the final rule. Differences in subsidy levels will be calculated using FY 2004 data.

1. *Transition Funding.* Under §§ 990.230 and 990.235 of the final rule, PHAs that experience a decrease or increase in operating subsidy will have that decrease phased-in over a specified number of years following the effective date of the final rule (November 18, 2005). The phase-in period is five years for subsidy reductions and two years for increases in operating subsidies. By specifying the date of November 18, 2005, the final rule incorrectly connects the first year of the phased-in reduction to initial formula implementation in FY 2006. This document corrects §§ 990.230 and 990.235 by removing references to specific dates.

2. *Discontinuation of subsidy reduction as a result of conversion to asset management (“stop-loss” provision).* As noted above, the final rule provides that phased-in reductions in operating subsidy will be discontinued if the PHA can demonstrate successful conversion to the asset management requirements contained in revised subpart H of the part 990 regulations. HUD will discontinue the reduction in accordance

with the corrected “stop-loss” schedule set forth in § 990.230 of the final rule that reflects initial formula implementation in calendar year 2007. For example, the first demonstration date in the corrected schedule is October 1, 2006, as opposed to the October 1, 2005, date incorrectly provided in the September 19, 2005, final rule.

■ Accordingly, FR Doc. 05–18624, Revisions to the Public Housing Operating Fund Program; Final Rule, (FR–4874–F–08), published in the **Federal Register** on September 19, 2005 (70 FR 54984), is corrected as follows:

PART 990—[AMENDED]

■ 1. On page 55003, in the second column, correct § 990.195(c) to read as follows:

§ 990.195 Calculation of formula income.
* * * * *

(c) *Frozen at 2004 level.* After a PHA’s formula income is calculated as described in paragraph (a) of this section, it will not be recalculated or inflated for fiscal years 2007 through 2009, unless a PHA can show a severe local economic hardship that is impacting the PHA’s ability to maintain some semblance of its formula income (see subpart G of this part—Appeals). A

PHA’s formula income may be recalculated if the PHA appeals to HUD for an adjustment in its formula.
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■ 2. In § 990.225, on page 55004, in the second column, correct the first sentence to read as follows:

§ 990.225 Transition determination.

The determination of the amount and period of the transition funding shall be based on the difference in subsidy levels between the formula set forth in this part and the formula in effect prior to implementation of the formula set forth in this part. * * *

■ 3. In § 990.230, on page 55004, in the third column, correct paragraphs (a), (b), (c), and (e) to read as follows:

§ 990.230 PHAs that will experience a subsidy reduction.

(a) For PHAs that will experience a reduction in their operating subsidy, as determined in § 990.225, such reductions will have a limit of:

(1) 24 percent of the difference between the two funding levels in the first year following implementation of the formula contained in this part;

(2) 43 percent of the difference between the two funding levels in the second year following implementation of the formula contained in this part;

(3) 62 percent of the difference between the two levels in the third year following implementation of the formula contained in this part; and

(4) 81 percent of the difference between the two levels in the fourth year following implementation of the formula contained in this part.

(b) The full amount of the reduction in the operating subsidy level shall be realized in the fifth year following implementation of the formula contained in this part.

(c) For example, a PHA has a subsidy reduction from \$1 million under the formula in effect prior to implementation of the formula contained in this part to \$900,000 under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million – \$900,000 = \$100,000). In the first year, the subsidy reduction would be limited to \$24,000 (24 percent of the difference). Thus, the PHA will receive an operating subsidy amount of this rule plus a transition-funding amount of \$76,000 (the \$100,000 difference between the two subsidy amounts minus the \$24,000 reduction limit).
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(e) The schedule of reductions for a PHA that will experience a reduction in subsidy is reflected in the table below.

| Funding period | Demonstration dated by | Reduction limited to |
|-----------------------|------------------------|-------------------------------------------------------------|
| Prior to year 1 | October 1, 2006 | 5 percent of the difference between the two funding levels. |
| Year 1 | October 1, 2007 | 24 percent of the difference. |
| Year 2 | October 1, 2008 | 43 percent of the difference. |
| Year 3 | October 1, 2009 | 62 percent of the difference. |
| Year 4 | October 1, 2010 | 81 percent of the difference. |
| Year 5 | October 1, 2011 | Full reduction reached. |

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■ 4. In § 990.235, on page 55005, in the first and second columns, correct paragraphs (a), (b), and (c) to read as follows:

§ 990.235 PHAs that will experience a subsidy increase.

(a) For PHAs that will experience a gain in their operating subsidy, as determined in § 990.225, such increases will have a limit of 50 percent of the difference between the two funding levels in the first year following implementation of the formula contained in this part.

(b) The full amount of the increase in the operating subsidy level shall be realized in the second year following implementation of the formula contained in this part.

(c) For example, a PHA’s subsidy increased from \$900,000 under the formula in effect prior to implementation of the formula contained in this part to \$1 million under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million – \$900,000 = \$100,000). In the first year, the subsidy increase would be limited to \$50,000 (50 percent of the difference). Thus, in this example the PHA will receive the operating subsidy amount of this rule minus a transition-funding amount of \$50,000 (the \$100,000 difference between the two subsidy amounts minus the \$50,000 transition amount).
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Dated: October 19, 2005.

Paula O. Blunt,
General Deputy Assistant Secretary for Public and Indian Housing.

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