

§ 5.611

determination, but families will not be required to repay the PHA or owner in instances where a PHA or owner has miscalculated income resulting in a family being undercharged for rent or family share.

(ii) HUD may revise the amount of de minimis error in this paragraph (c)(4) through a rulemaking published in the FEDERAL REGISTER for public comment.

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the responsible entity, defined in § 5.100 and § 5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions.* In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

(1) \$480 for each dependent;

(2) \$400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(b) *Additional deductions.* (1) For public housing, a PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions.

(2) For the HUD programs listed in § 5.601(d), the responsible entity shall calculate such other deductions as required and permitted by the applicable program regulations.

[66 FR 6223, Jan. 19, 2001]

24 CFR Subtitle A (4–1–23 Edition)

EFFECTIVE DATE NOTE: At 88 FR 9659, Feb. 14, 2023, § 5.611 was revised, effective Jan. 1, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions.* (1) \$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;

(2) \$525 for any elderly family or disabled family, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;

(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed. This deduction may not exceed the combined earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(b) *Additional deductions.* (1) For public housing, the Housing Choice Voucher (HCV) and the Section 8 moderate rehabilitation programs (including the moderate rehabilitation Single-Room Occupancy (SRO) program), a PHA may adopt additional deductions from annual income.

(i) *Public housing.* A PHA that adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions. The PHA must establish a written policy for such deductions.

(ii) *HCV, moderate rehabilitation, and moderate rehabilitation Single-Room Occupancy (SRO) programs.* A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding or moderate rehabilitation program funding for subsidy costs resulting from such

Office of the Secretary, HUD

§5.611, Nt.

deductions. For the HCV program, the PHA must include such deductions in its administrative plan. For moderate rehabilitation, the PHA must establish a written policy for such deductions.

(2) For the HUD programs listed in §5.601(d), the responsible entity must calculate such other deductions as required and permitted by the applicable program regulations.

(c) *Financial hardship exemption for unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.* (1) *Phased-in relief.* This paragraph provides financial hardship relief for families affected by the statutory increase in the threshold to receive health and medical care expense and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

(i) *Eligibility for relief.* To receive hardship relief under this paragraph (c)(1), the family must have received a deduction from annual income because their sum of expenses under paragraph (a)(3) of this section exceeded 3 percent of annual income as of January 1, 2024.

(ii) *Form of relief.* (A) The family will receive a deduction totaling the sum of the expenses under paragraph (a)(3) of this section that exceed 5 percent of annual income.

(B) Twelve months after the relief in this paragraph (c)(1)(ii) is provided, the family must receive a deduction totaling the sum of expenses under paragraph (a)(3) of this section that exceed 7.5 percent of annual income.

(C) Twenty-four months after the relief in this paragraph (c)(1)(ii) is provided, the family must receive a deduction totaling the sum of expenses under paragraph (a)(3) of this section that exceed ten percent of annual income and the only remaining relief that may be available to the family will be paragraph (d)(1) of this section.

(D) A family may request hardship relief under paragraph (c)(2) of this section prior to the end of the twenty-four-month transition period. If a family making such a request is determined eligible for hardship relief under paragraph (c)(2) of this section, hardship relief under this paragraph ends and the family's hardship relief shall be administered in accordance with paragraph (c)(2) of this section. Once a family chooses to obtain relief under paragraph (c)(2) of this section, a family may no longer receive relief under this paragraph.

(2) *General.* This paragraph (c)(2) provides financial relief for an elderly or disabled family or a family that includes a person with disabilities that is experiencing a financial hardship.

(i) *Eligibility for relief.* (A) To receive hardship relief under this paragraph (c)(2), a family must demonstrate that the family's applicable health and medical care expenses or

reasonable attendant care and auxiliary apparatus expenses increased or the family's financial hardship is a result of a change in circumstances (as defined by the responsible entity) that would not otherwise trigger an interim reexamination.

(B) Relief under this paragraph (c)(2) is available regardless of whether the family previously received deductions under paragraph (a)(3) of this section, is currently receiving relief under paragraph (c)(1) of this section, or previously received relief under paragraph (c)(1) of this section.

(ii) *Form and duration of relief.* (A) The family will receive a deduction for the sum of the eligible expenses in paragraph (a)(3) of this section that exceed 5 percent of annual income.

(B) The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, responsible entities may, at their discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

(d) *Exemption to continue child care expense deduction.* A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue the child care expense deduction under paragraph (a)(4) of this section. The responsible entity must recalculate the family's adjusted income and continue the child care deduction if the family demonstrates to the responsible entity's satisfaction that the family is unable to pay their rent because of loss of the child care expense deduction, and the child care expense is still necessary even though the family member is no longer employed or furthering his or her education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. Responsible entities, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

(e) *Hardship policy requirements.* (1) *Responsible entity determination of family's inability to pay the rent.* The responsible entity must establish a policy on how it defines what constitutes a hardship under paragraphs (c) and (d) of this section, which includes determining the family's inability to pay the rent, for purposes of determining eligibility for a hardship exemption under paragraph (d) of this section.

(2) *Family notification.* The responsible entity must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from the hardship exemption. The notice must also inform the family of when the hardship exemption will begin and expire (*i.e.*, the time periods specified under paragraph (c)(1)(ii) of this section or within 90

§5.612

days or at such time as the responsibility entity determines the exemption is no longer necessary in accordance with paragraphs (c)(2)(ii)(B) or (d) of this section).

§5.612 Restrictions on assistance to students enrolled in an institution of higher education.

No assistance shall be provided under section 8 of the 1937 Act to any individual who:

- (a) Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
- (b) Is under 24 years of age;
- (c) Is not a veteran of the United States military;
- (d) Is unmarried;
- (e) Does not have a dependent child;
- (f) Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005; and
- (g) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

[70 FR 77743, Dec. 30, 2005, as amended at 73 FR 49333, Aug. 21, 2008]

§5.613 Public housing program and Section 8 tenant-based assistance program: PHA cooperation with welfare agency.

(a) This section applies to the public housing program and the Section 8 tenant-based assistance program.

(b) The PHA must make best efforts to enter into cooperation agreements with welfare agencies under which such agencies agree:

- (1) To target public assistance, benefits and services to families receiving assistance in the public housing program and the Section 8 tenant-based assistance program to achieve self-sufficiency;
- (2) To provide written verification to the PHA concerning welfare benefits for families applying for or receiving assistance in these housing assistance programs.

[65 FR 16717, Mar. 29, 2000]

24 CFR Subtitle A (4–1–23 Edition)

§5.615 Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits (“welfare benefits”) from a State or other public agency (“welfare agency”) under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at §5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family’s annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) “Specified welfare benefit reduction” does not include a reduction or termination of welfare benefits by the welfare agency:

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- (iii) because a family member has not complied with other welfare agency requirements.