

§5.617

the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

[65 FR 16717, Mar. 29, 2000]

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

(a) *Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

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

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

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.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unem-

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ployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(c) *Disallowance of increase in annual income—*(1) *Initial 12-month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second 12-month exclusion and phase-in.* Upon the expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

[66 FR 6223, Jan. 19, 2001, as amended at 67 FR 6820, Feb. 13, 2002; 81 FR 12370, Mar. 8, 2016]

EFFECTIVE DATE NOTE: At 88 FR 9660, Feb. 14, 2023, §5.617 was amended by adding paragraphs (e) and (f), effective Jan. 1, 2024. For the convenience of the user, the added text is set forth as follows:

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

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(e) *Limitation.* This section applies to a family that is receiving the disallowance of earned income under this section on December 31, 2023

(f) *Sunset.* This section will lapse on January 1, 2026.

§5.618 Restriction on assistance to families based on assets.

(a) *Restrictions based on net assets and property ownership.* (1) A dwelling unit in the public housing program may not be rented, and assistance under the Section 8 (tenant-based and project-based) programs may not be provided,

either initially or upon reexamination of family income, to any family if:

(i) The family's net assets (as defined in §5.603) exceed \$100,000, which amount will be adjusted annually by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers; or

(ii) The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on State or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence, except this real property restriction does not apply to:

(A) Any property for which the family is receiving assistance under 24 CFR 982.620; or under the Homeownership Option in 24 CFR part 982;

(B) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;

(C) Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as defined in this part 5 (subpart L); or

(D) Any family that is offering such property for sale.

(2) A property will be considered "suitable for occupancy" under paragraph (a)(1)(ii) of this section unless the family demonstrates that it:

(i) Does not meet the disability-related needs for all members of the family (*e.g.*, physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);

(ii) Is not sufficient for the size of the family;

(iii) Is geographically located so as to be a hardship for the family (*e.g.*, the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);

(iv) Is not safe to reside in because of the physical condition of the property (*e.g.*, property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or