

(ii) If the owner adopts a preference for admission of working families, the owner must not give a preference based on the amount of earned income.

(3) *Preference for person with disabilities.* The owner may adopt a preference for admission of families that include a person with disabilities. However, the owner may not adopt a preference for admission of persons with a specific disability.

(4) *Preference for victims of domestic violence.* The owner should consider whether to adopt a preference for admission of families that include victims of domestic violence.

(5) *Preference for single persons who are elderly, displaced, homeless or persons with disabilities over other single persons.* The owner may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

[65 FR 16720, Mar. 29, 2000]

§ 5.657 Section 8 project-based assistance programs: Reexamination of family income and composition.

(a) *Applicability.* This section states requirements for reexamination of family income and composition in the Section 8 project-based assistance programs, except for the moderate rehabilitation and the project-based certificate or voucher programs.

(b) *Regular reexamination.* The owner must conduct a reexamination and re-determination of family income and composition at least annually.

(c) *Interim reexaminations.* A family may request an interim reexamination of family income because of any changes since the last examination. The owner must make the interim reexamination within a reasonable time after the family request. The owner may adopt policies prescribing when and under what conditions the family must report a change in family income or composition.

(d) *Streamlined income determination—*(1) *General.* An owner may elect to apply a streamlined income determination to families receiving fixed income as described in paragraph (d)(3) of this section.

(2) *Definition of “fixed income”.* For purposes of this section, “fixed in-

come” means periodic payments at reasonably predictable levels from one or more of the following sources:

(i) Social Security, Supplemental Security Income, Supplemental Disability Insurance.

(ii) Federal, state, local, or private pension plans.

(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.

(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

(3) *Method of streamlined income determination.* Owners using the streamlined income determination must adjust a family's income according to the percentage of a family's unadjusted income that is from fixed income.

(i) When 90 percent or more of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. For non-fixed income, owners are not required to make adjustments pursuant to paragraph (b) of this section.

(ii) When less than 90 percent of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA to each of the family's sources of fixed income. Owners must determine all other income pursuant to paragraph (b) of this section.

(4) *COLA rate applied by owners.* Owners using streamlined income determinations must adjust a family's fixed income using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided, third-party-generated documentation. If no public verification or tenant-provided documentation is available, then the owner must obtain third-party verification of the income amounts in order to calculate the change in income for the source.

§ 5.657

(5) *Triennial verification.* For any income determined pursuant to a streamlined income determination, an owner must obtain third-party verification of all income amounts every 3 years.

[65 FR 16720, Mar. 29, 2000, as amended at 81 FR 12371, Mar. 8, 2016; 82 FR 58340, Dec. 12, 2017; 85 FR 27139, May 7, 2020]

EFFECTIVE DATE NOTE: At 88 FR 9661, Feb. 14, 2023, § 5.657 was amended by revising paragraph (c) and by adding paragraphs (e) and (f), effective Jan. 1, 2024. For the convenience of the user, the revised and added text is set forth as follows:

§ 5.657 Section 8 project-based assistance programs: Reexamination of family income and composition.

* * * * *

(c) *Interim reexaminations.* (1) *Generally.* A family may request an interim reexamination of family income because of any changes since the last examination. The owner must conduct any interim reexamination within a reasonable time after the family request or when the owner becomes aware of an increase in family adjusted income under paragraph (c)(3) of this section. What qualifies as a “reasonable time” may vary based on the amount of time it takes to verify information, but such time generally should not exceed 30 days from the date a family reports changes in income to an owner.

(2) *Decreases in the family’s annual adjusted income.* The owner may decline to conduct an interim reexamination of family income if the owner estimates that the family’s adjusted income will decrease by an amount that is less than ten percent of the family’s annual adjusted income (or a lower amount established by HUD through notice), or such lower threshold established by the owner.

(3) *Increases in the family’s annual adjusted income.* The owner must conduct an interim reexamination of family income when the owner becomes aware that the family’s adjusted income (as defined in § 5.611) has changed by an amount that the owner estimates will result in an increase of ten percent or more in annual adjusted income or such other amount established by HUD through notice, except:

(i) The owner may not consider any increase in the earned income of the family when estimating or calculating whether the family’s adjusted income has increased, unless the family has previously received an interim reduction under paragraph (c)(1) of this section during the certification period; and

(ii) The owner may choose not to conduct an interim reexamination in the last three months of a certification period.

24 CFR Subtitle A (4–1–23 Edition)

(4) *Policies on reporting changes in family income or composition.* The owner must adopt policies consistent with this paragraph (c), prescribing when and under what conditions the family must report a change in family income or composition.

(5) *Effective date of rent changes.* (i) If the family has reported a change in family income or composition in a timely manner according to the owner’s policies, the owner must provide the family with 30 days advance notice of any rent increase, and such rent increase will be effective the first day of the month beginning after the end of that 30-day notice period. Rent decreases will be effective on the first day of the first month after the date of the actual change leading to the interim reexamination of family income.

(ii) If the family has failed to report a change in family income or composition in a timely manner according to the owner’s policies, owners must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income. Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. However, rent decreases may be applied retroactively at the discretion of the owner, in accordance with the owner’s conditions as established in written policy, and subject to paragraph (c)(5)(iii) of this section.

(iii) A retroactive rent decrease may not be applied by the owner prior to the later of the first of the month following:

(A) The date of the change leading to the interim reexamination of family income; or

(B) The effective date of the family’s most recent previous interim or annual reexamination (or initial examination if that was the family’s last examination).

* * * * *

(e) *Other applicable requirements.* Reviews of family income under this section are subject to the provisions in Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended (42 U.S.C. 3544), and any applicable privacy rules in subpart B of this part.

(f) *De minimis errors.* The owner will not be considered out of compliance with the requirements in this section due solely to de minimis errors in calculating family income but is still obligated to correct errors once the owner becomes aware of the errors. A de minimis error is an error where the owner determination of family income varies from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

(1) The owner must take any corrective action necessary to credit or repay a family if

the family has been overcharged for their rent as a result of the de minimis error in the income determination. Families will not be required to repay the owner in instances where the owner has miscalculated income resulting in a family being undercharged for rent or family share.

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

§ 5.659 Family information and verification.

(a) *Applicability.* This section states requirements for reexamination of family income and composition in the Section 8 project-based assistance programs, except for the moderate rehabilitation program and the project-based certificate or voucher programs.

(b) *Family obligation to supply information.* (1) The family must supply any information that HUD or the owner determines is necessary in administration of the Section 8 program, including submission of required evidence of citizenship or eligible immigration status (as provided by part 5, subpart E of this title). “Information” includes any requested certification, release or other documentation.

(2) The family must supply any information requested by the owner or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

(3) For requirements concerning the following, see part 5, subpart B of this title:

- (i) Family verification and disclosure of social security numbers;
- (ii) Family execution and submission of consent forms for obtaining wage and claim information from State Wage Information Collection Agencies (SWICAs).

(4) Any information supplied by the family must be true and complete.

(c) *Family release and consent.* (1) As a condition of admission to or continued occupancy of a unit with Section 8 assistance, the owner must require the family head, and such other family members as the owner designates, to execute a HUD-approved release and consent form (including any release and consent as required under § 5.230 of this title) authorizing any depository

or private source of income, or any Federal, State or local agency, to furnish or release to the owner or HUD such information as the owner or HUD determines to be necessary.

(2) The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of the Section 8 program.

(d) *Owner responsibility for verification.* Except as allowed under paragraph (e), the owner must obtain and document in the family file third party verification of the following factors, or must document in the file why third party verification was not available:

- (1) Reported family annual income;
- (2) The value of assets;
- (3) Expenses related to deductions from annual income; and
- (4) Other factors that affect the determination of adjusted income.

(e) *Verification of assets.* For a family with net assets equal to or less than \$5,000, an owner may accept, for purposes of recertification of income, a family’s declaration that it has net assets equal to or less than \$5,000 without taking additional steps to verify the accuracy of the declaration, except as required in paragraph (e)(2) of this section.

(1) The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family’s income.

(2) An owner must obtain third-party verification of all family assets every 3 years.

[65 FR 16721, Mar. 29, 2000, as amended at 82 FR 58340, Dec. 12, 2017]

EFFECTIVE DATE NOTE: At 88 FR 9662, Feb. 14, 2023, § 5.659 was amended by revising paragraph (e), effective Jan. 1, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 5.659 Family information and verification.

* * * * *

(e) *Verification of assets.* For a family with net family assets (as the term is defined in § 5.603) equal to or less than \$50,000, which amount will be adjusted annually by HUD in accordance with the Consumer Price Index