

E&A Team, Inc. Industry Updates and News

Interim Final Rule on December 12, 2017 - Streamlining

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HUD published an Interim Final Rule on December 12, 2017, amending regulatory language that applies to Public Housing, Housing Choice Voucher Program and Project-Based Rental Assistance Programs. The purpose of the rule is to implement the FAST Act and modify previously issued streamlining regulations to bring these regulations into alignment. Additionally, this rule expands previous streamlining regulations relating to asset verification and utility reimbursements to also cover multi-family housing programs.

Specifically, this Interim Final Rule amended regulations as it relates to the following:

- **Asset Verification**
- **Utility Allowance Reimbursements**
- **Triennial Income Verification**

Effective date:
March 12, 2018

Asset Verification

This Interim Final Rule reduces the burden of verifying household assets when determining a household's income upon recertification.

The rule reduces this burden by permitting owner/agents to **verify a household's assets every three years** as opposed to every single year. In the intermediate years (years 2 and 3 after a full third-party income certification has been conducted), the owner may choose to "verify" assets by accepting a self-certification from a household declaring that the household has net assets equal to or less than \$5,000.



Third-party verification must be obtained every 3 years.

Example: Asset Self-Certification

Initial Certification:

The Barnaby household moved in on 6/1/18. At the time of move-in, the household has only one asset, a checking account with a value of \$200. As this is the initial certification, the checking account must be verified.

1st Recertification

When completing their recertification due 6/1/19, the Barnaby household declares that their only asset is a checking account with a value of \$350.00. Since the Barnaby household declared that the net value of assets is less than \$5,000, third-party verification of the checking account is not required.

2nd Recertification

When completing their recertification due 6/1/20, the Barnaby household declares that their only asset is a checking account with a value of \$450.00. Since the Barnaby household declared that the net value of assets is less than \$5,000, third-party verification of the checking account is not required.

3rd Recertification

When completing their recertification due 6/1/21, the Barnaby household declares that their only asset is a checking account with a value of \$550.00. Even though the Barnaby household declared that the net value of assets is less than \$5,000, third-party verification of the checking account is required.

Utility Reimbursements

This Interim Final Rule also reduces the burden of issuing small utility reimbursements to tenants who receive project-based rental assistance. The rule reduces this burden by permitting owner/agents to make such utility reimbursements on a quarterly basis, **if the reimbursement is \$15 or less per month (\$45 per quarter).**

A utility reimbursement is required to be paid to tenants who pay their own utilities when the utility allowance for the project exceeds the household's total tenant payment.

If an owner chooses to use this option, a written policy will need to be implemented to address those households for whom receiving the reimbursement on a quarterly basis would create a financial hardship.



Example:

A utility allowance for a unit is \$100 a month. For a tenant with a Total Tenant Payment of \$90.00, the utility reimbursement would be \$10.00 per month. Since the monthly utility reimbursement is \$15 or less, the owner can distribute the utility reimbursement quarterly as opposed to monthly.

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Streamlined Income Verification of Fixed Income Sources

This Interim Final Rule also reduces the burden of verifying fixed income sources when determining a household's income upon recertification.

The rule reduces this burden by permitting owner/agents to **verify a household's fixed income every three years** as opposed to every single year. In certain circumstances detailed below, an owner/agent is not required to verify non-fixed income sources in years 2 and 3 after a full third-party income certification has been conducted.

Full third-party recertification must still be completed every 3 years.

Fixed Income Defined

Periodic payments at reasonably predictable levels from one or more of the following sources:

Section 8: § 5.657 (d)(2)
Public Housing: § 960.257(c)(2)

- ✓ Social Security, Supplemental Security Income, Supplemental Disability Insurance.
- ✓ Federal, state, local, or private pension plans
- ✓ Annuities or other retirement benefit programs
- ✓ Insurance policies
- ✓ Disability or death benefits
- ✓ Other similar types of periodic receipts
- ✓ Any other source of income subject to adjustment by a verifiable COLA or current rate of interest

Fixed Income Triennial Verification

If the streamlined income verification method is used, for recertifications completed in intermediate years (years 2 and 3 after a full third-party income certification has been conducted) a household's income from the fixed source can be determined by applying a verified cost of living adjustment (COLA) or a rate of interest to the fixed source. **The determination of whether verification of the household's non-fixed income sources is required, will depend on if the household meets the 90% threshold test.**

90% Threshold Test

≥ 90% of Gross Income

At least 90% of Gross Income from a Fixed Income Source

For households whose fixed income represents **90% or more** of the **household's total gross income**, the owner is **not required to adjust non-fixed income sources**. However, the owner may still choose to verify and update the non-fixed income sources.

< 90% of Gross Income

Less than 90% of Gross Income from a Fixed Income Source

For households whose fixed income represents **less than 90%** of the **total gross household income**, the owner **must verify non-fixed income sources**.

Example: Does Meet 90% Threshold

Thomas and Jerry reside in a unit and receive project-based rental assistance. They moved in on 9/1/2017, at which time a full certification was conducted.

- Thomas received \$11,000 a year from Social Security benefits.
- Jerry received \$10,000 in Social Security benefits.
- Jerry also works part-time seasonally and earned \$2,000 a year.
- The gross annual household income totaled \$23,000.

To meet the 90% threshold test, 90% of the total gross household income, or \$20,700 would need to be from a fixed income source(s). $\$23,000 \times 90\% = \$20,700$.

Since the fixed income received by this household totals \$21,000, this household meets the 90% threshold test.

This means that when the household's first recertification, due 6/1/2018, is being completed, the fixed income source can be determined by applying the verified COLA to both Thomas and Jerry's benefit income, and the non-fixed income source (Jerry's wages of \$2,000) is not required to be verified.

Example: Does Not Meet 90% Threshold

Josh and Mary reside in a unit and receive project-based rental assistance. They moved in on 6/1/2017, at which time a full certification was conducted.

- Josh received \$15,000 a year from Social Security benefits.
- Mary works part-time and earned \$5,000 a year.
- The gross annual household income totaled \$20,000.

To meet the 90% threshold test, 90% of the total gross household income, or \$18,000, would need to be from a fixed income source(s). $\$20,000 \times 90\% = \$18,000$.

Since the fixed income received by this household is only \$15,000, this household does not meet the 90% threshold test.

This means that when the household's first recertification, due 6/1/2018, is being completed, the fixed income source can be determined by applying the verified COLA to Josh's benefit income, however, Mary's wages must be third-party verified.

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Supplemental Information

Wait..wasn't a final rule regarding these topics already published?

Kind of, sort of, but not really. To truly understand the purpose of this Interim Final Rule, we need to review the text and timeline of previous regulatory changes that led to the publication of this Interim Final Rule.

January 6, 2015 Proposed Rule

This proposed rule proposed several changes including topics related to streamlining recertifications, utility reimbursements and asset verification.

Streamlining Recertification: The proposed rule proposed that for households whose total gross household income is derived 100% from fixed income sources, that the fixed income sources could be verified and adjusted by applying a verified cost of living adjustment.

Asset Verification: In the proposed rule, HUD proposed to permit Public Housing and Housing Choice Voucher programs (but not Multi-Family Housing programs) to accept 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, instead of verifying all assets, regardless of the value.

Utility Reimbursement: In the proposed rule, HUD proposed to permit Public Housing and Housing Choice Voucher programs (but not Multi-Family Housing programs) to choose to disburse utility allowances on a quarterly basis, as opposed to a monthly basis, if the utility reimbursement is \$20.00 or less quarterly.

December 8, 2015 FAST Act

Before HUD could publish its Final Rule, the Fast Act was signed into law. While the FAST Act is at its core a transportation act, changes to HUD regulations made their way into the act as it relates to streamlining recertifications.

The Fast Act states that for households with a fixed income source that is equal to or more than 90% of the household's total gross income, full recertification of all income sources is only required every 3rd year. Meaning that after the initial full income certification has been conducted, the PHA or Owner may adjust the fixed income source by applying a verified COLA, and no adjustment is required for the non-fixed income sources.

March 8, 2016 Final Rule

HUD published its Final Rule after making modifications as a result of comments received by HUD based on the proposed rule.

Streamlining Recertification: This final rule allowed for a streamlined income determination for any fixed source of income, even if the household also had a non-fixed source of income.

It required that, upon admission to a program, third-party verification of all income amounts had to be obtained for all household members, and a full income recertification be completed every 3 years.

In the interim years, this final rule allowed for the fixed income source to be determined by applying a verified COLA to the previous years documented income amount, however, all non-fixed income sources still had to be third party verified.

Asset Verification: HUD permitted Public Housing and Housing Choice Voucher programs (but not Multi-Family Housing programs) to verify household assets every three years, as opposed to every year, if the PHA or Owner obtained a household declaration that the household had net assets equal to or less than \$5,000.

Utility Reimbursement: HUD permitted Public Housing and Housing Choice Voucher programs (but not Multi-Family Housing programs) to choose to disburse utility allowances on a quarterly basis, as opposed to a monthly basis, if the utility reimbursement was \$45.00 or less per quarter.

Bringing it all together....

So essentially, the purpose of the Interim Final Rule, published December 12, 2017, was to modify previously issued streamlining regulations to bring these regulations into alignment with the Fast Act and expand some of the previous streamlining regulations to also cover multi-family housing.