What the Housing Opportunities Through Modernization Act (HOTMA) Means for You

1. When PHAs verify how much a resident makes after large changes in income, they no longer have to use HUD's system for digital verification system known as EIV.

Key Points:

- PHAs are now only required to use the Electronic Income Verification (EIV) Search at annual reexaminations, and not at interim reexaminations.
- Prior to this change, EIV was required at interim reexaminations.
- HUD also noted that if a PHA or owner makes a mistake overcharging a family, they must refund the excess rent and in the case of undercharge, the family will not be held liable for the underpaid rent.

Income Calculation Changes

2. PHAs must use income from the past year when calculating incomes for annual reviews, instead of projecting what a resident might make in the future.

Key points:

- PHAs are no longer required to project long-term income for annual reviews. They will also no longer be required to carry out more frequent ones.
- They still must carry out and take into account interim reexaminations as required, but annualizing income is now eliminated and simply put, the last 12 months of income, from the point of the income determination, is all that is needed for an annual review.
- Interim reexaminations are now triggered by increases or decreases in income of 10%.

3. Families "over income" for 24 consecutive months are no longer public housing residents, but PHAs may allow them to continue living in their unit.

Key points:

- HUD is leaving it up to PHAs to either force "over-income" families out of public housing or allow them to pay a higher rent in order to stay in their unit.

- Families making 120% of AMI for 24 consecutive months can no longer:
    - Participate in public housing resident councils
    - Participate in programs only for public housing families
    - Receive a utility allowance from PHAs.

- PHAs will still have to provide reasonable accommodations for individuals with disabilities.

- In Wayne County, Ohio the over income threshold limit is $66,250 for a family of four.

- Rents for these families will be:
    - The 2024 FMR in Wayne County, Ohio which varies every year (which is between $703 for a one-bedroom and $1,292 for a four bedroom)

- Wayne Metropolitan Housing Authority (WMHA) decided to provide these families with a new lease and remain in Public Housing. Family will receive notices that their income is over-the-limit.

4. **Most disability payments that allow a family member with any type of disability to live at home are not counted as income.**

Key points:

- The point of this change is to ensure that payments being used to keep a family member who has any disability (not just a developmental disability) can continue living at home. Most importantly, the exclusion isn't confined to those payments that offset the cost of services or equipment.

- This only applies to family members living in the assisted unit.

- This change excludes payments from State Medicaid managed care systems and in-home supports — and other similar payments from States not connected to Medicaid — from being counted as family income.

5. **HUD clarifies "non-reoccurring income", which doesn't count towards a family's net annual income for purposes of determining eligibility or rent.**

Key points:

- Generally, this rule intends to direct PHAs to exclude income sources that a family cannot rely upon to pay for a family's housing needs. These include:
    - Temporary work on the Decennial Census
    - Stimulus or tax credit payments
    - Tax refunds

    - Gifts for special occasions, like birthdays and holidays.

- HUD has specified that day laborer, independent contractor, and seasonal worker income will still be included in a family's income calculation.

- Any lump sum additions to a family's assets are not to be included as income. Examples include lottery winnings, civil action recoveries, inheritances and insurance payouts (including those from personal property loss).

- The rule clarifies that civil rights settlements or judgments, whether resolutions are structured settlements or lump-sum payments, do not count toward a family's income. This exclusion includes funds from litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under:
    - the Fair Housing Act;
    - Title VI of the Civil Rights Act;
    - Section 504 of the Rehabilitation Act (Section 504);
    - The Americans with Disabilities Act; or
    - Any other civil rights or fair housing statute or requirement.

6. Student Aid doesn't count toward income for the purposes of eligibility and rent calculation.

Key points:

- This change directs PHAs and owners to exclude forms of student assistance and some income from a family's income calculation, including Federal Pell Grants, Teach Grants, Federal Work- Study Programs, Federal Perkins Loans, among others.

- This applies even if the assistance the student receives is more than the cost of tuition and fees. However, Congress usually includes language in their budget which forces PHAs to count any amount of student financial assistance in excess of the costs of tuition, fees, and other charges towards a family's income. Therefore, the extent to which student aid is excluded from the income calculations will be a year-by-year decision. Though Congress has included this language for a decade.

7. Retirement Accounts are not income until they are drawn upon.

Key points:

- Income received from any account under an IRS-recognized retirement plan, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals are no longer included in a family's income calculation since they cannot be used to help a family pay for housing.

- However, any payments from these accounts at the time they are received by the family do count as income, including periodic pension payments.

- Funds that go into a family's Family Self Sufficiency (FSS) account — a program that provides workforce and financial training and allows additional income to be saved by a voucher and public housing family instead of going towards rent — are also not counted towards income, though, they do count towards assets.

Family Definition Changes

8. Foster and Homeless or at-risk Youth are now eligible for public housing and Section 8.

Key points:

- This change expands the definition of "family" to include youth who are between the ages of 18 and 24, who have either left foster care or will leave foster care within 90 days, and who are homeless or at risk of becoming homeless at age 16 or older.

- By expanding this definition, an individual who fits these criteria is now eligible to lease a unit under the programs.

9. HUD clarifies foster child and adult definitions

- Foster adults (ex. a live-in aid) and foster children are eligible members of the household, but their income or assets are not counted towards family income or assets.

- In the case when a child is temporarily away from the home because of placement in foster care, the child will be considered a member of the family. And if an assisted family temporarily housed this foster child and counted the child as a member of their family, then the child would be considered a family member of two assisted families at the same time.

Assets Changes

10. Personal property and FSS are not counted towards a family's assets.

Key points:

- This change alters the definition of a family's net assets to exclude any "necessary" personal property. (HUD guidance on this is forthcoming.)

- PHAs are to continue to only note assets if a family has unnecessary property that is valued at more than $50,000 in total, adjusting for inflation. (Families with assets below $50,000 can self-certify their net family assets.)

- Federal tax refunds or refundable tax credits are also excluded from asset calculation for a 12-month period after they are received.

- FSS accounts no longer count toward a family's assets.

- What counts as an asset is important because family's who have more than $100,000 in assets, adjusted annually for inflation cannot stay in HUD funded rental units.