



Commonwealth of Massachusetts
**EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES**

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus Jr., Secretary

To: REGIONAL ADMINISTERING AGENCIES
From: ELIZABETH ROURKE
Date: 02/20/2025
Re: ELDERLY/DISABLED PARTIAL ROLLBACK AND HOTMA REGULATION IMPLEMENTATION

Non-MTW to MTW Elderly/Disabled Deduction Rollback

Purpose:

EOHLC is **partially** rolling back the implementation of the increased elderly/disabled deduction of \$650. Due to the constraints of the IMS/PIC data system, it has become clear that staff will be unable to successfully finalize a 50058 with an elderly/disabled deduction other than the original \$400 for projects coded as non-MTW to which EOHLC applies MTW flexibilities. Submitting a 50058 with a greater deduction amount to IMS/PIC would return a fatal error.

Implementation Date:

As discussed in Karlene Maiolino's email to RAAs, effective 01/24/2025.

Applicability:

This rollback applies only to the non-MTW programs that EOHLC had planned to convert to MTW PIC, including VASH, FUP, MS5, MS 2018, Stability, and EHV. Additionally, EOHLC is only rolling back the elderly/disabled deduction. All other MTW efficiencies/policies should be implemented as planned.

Guidelines:

Non-MTW Elderly/Disabled Deduction Rollback:

- RAAs will not receive an audit finding for conducting late certifications due to this rollback.
 - In the event the RAA was able to process the 50058 and PIC accepted it through some sort of workaround, EOHLC will not ask the RAA to reverse that work.
 - If the RAA was unable to process the 50058 or IMS/PIC did not accept the transaction, the RAA will need to remove the deduction and reprocess the 50058 to reflect the \$400 deduction. EOHLC understands that this will result in late certifications for 1/1/25, and RAAs will not be held accountable for these late recertifications. Proper notification to the tenant and landlord will still be required.
 - EOHLC will ensure that this update is reflected in the Rent Calculator.
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HOTMA Updates to Income & Definitions

Purpose:

Per HUD Notice PIH 2024-38, the following income and assets provisions from Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) must be complied with no later than 07/01/2025. EOHLC will be updating the Admin Plan and removing any “HOTMA Hold” icons to comply with this notice.

Implementation Date:

These provisions will be effective 05/01/2025. The Admin Plan will be updated with these additions on our next rollout (tentatively 09/01/2025).

Applicability:

The notice applies to PHAs administering Office of Public and Indian Housing (PIH) programs (HCV [including Project-Based Vouchers], Moderate Rehabilitation, Moderate Rehabilitation SRO, Public Housing), including PHAs that participate in the Moving to Work (MTW) Demonstration.

The contents of the notice apply to PHAs participating in the MTW program except where an approved MTW waiver is in place. For example, MTW PHAs that have previously developed a different method of measuring prior-year income as part of the Rent Reform Demonstration or Stepped and Tiered Rent Demonstration may continue to use those methods after this notice takes effect.

Guidelines:

1. INCOME EXCLUSIONS: 24 CFR 5.609(b)

Item Excluded	Exclusion	Notes
Nonrecurring Income: Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification). However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under 24 CFR 5.609(b)(24), even if the source, date, or amount of the income varies.		
Payments from the U.S. Census Bureau	For U.S. Census employment lasting no longer than 180 days and not culminating in permanent employment.	
Economic Stimulus or Recovery Payments	Direct federal or state economic stimulus payments.	HUD will continue to advise which payments are considered economic stimulus or recovery payments for the purposes of income calculation.
State Tax Refunds	Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received.	12 months after the receipt of this payment, it will be included in the net family assets unless the asset is specifically excluded.
Federal Tax Refunds	Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received.	12 months after the receipt of this payment, it will be included in the net family assets unless the asset is specifically excluded.

Item Excluded	Exclusion	Notes
Gifts	Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts).	
In-Kind Donations	Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization as no monetary value can be assigned to these.	Non-recurring , non-monetary in-kind donations from friends and family may also be excluded as non-recurring income.
Lump-Sum Additions to Net Family Assets	Including but not limited to lottery or other contest winnings, are excluded from annual income.	May be included as part of net family assets but not considered income.
Trust Distributions:		
Irrevocable trust or a revocable trust outside the control of the family or household	Exclude distributions of the principal or main assets of the trust as well as distributions of income from the trust when they are used to pay the cost of health/medical care expenses for a minor.	Please see 24 CFR 5.609(b)(2) regarding certain distributions of irrevocable trusts or revocable trusts outside the control of the family or household (including most Special Needs Trusts).
Certain Payments Received by Tribal Members	Payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements.	In MA, the Mashpee Wampanoag Tribe and the Passamaquoddy, Penobscot, Maliseet, and Micmac Tribes have entered into settlement agreements.
Student Financial Assistance: 24 CFR 5.609(b)(9) The treatment of student financial assistance depends on the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.		
Achieving a Better Life Experience (ABLE) Accounts	Income generated from ABLE accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income.	Certain contributions deposited into ABLE accounts are excluded in addition to the aforementioned exclusions.
Coverdell Education Savings Accounts, 529 Accounts and "Baby Bond" Accounts	Income and distributions from afore-mentioned accounts.	
Other Income Sources:		
Family Self Sufficiency (FSS) Income Earned	Income earned on amounts placed in a family's FSS account is excluded from the family's calculation of annual income.	

Item Excluded	Exclusion	Notes
Income of Live-in Aides, Foster Children, and Foster Adults	Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603 is excluded from the family's calculation of annual income.	
Foster Care Payments	Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments.	Also applies to Kinship Guardian Assistance Payments (KinGAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.
Insurance Payments or Settlements	Payments for personal or property losses.	Including (but not limited to) health insurance, motor vehicle, & workers' comp.
Civil Action Recoveries or Settlements	Any amounts received based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of a law that resulted in a member of the family becoming a person with disabilities.	
Civil Rights Settlements or Judgments	Any settlements or judgments, including settlements or judgments for back pay.	Historically applied to only lump-sum additions to assets but now include amounts distributed on a periodic payment schedule and back pay.
Children under 18 years of age	Earned income from children under 18 years of age is fully excluded.	
Full-Time Student Income	Earned income of dependent full-time students in excess of the amount of the deduction for a dependent of \$480. For non-MTW only. (Follow EOHLC's MTW Plan for MTW Participants).	Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This does not exclude unearned income.
Adoption Assistance Payments	Adoption assistance payments in excess of \$480 (dependent deduction amount) per adopted child.	
Veterans Regular Aid and Attendance	Payments to veterans in need of regular aid and attendance.	Certain veterans are eligible for "aid and attendance" payments from the Veterans Affairs (VA) Administration. These payments are distinct from payments made to veterans under other VA programs.

Item Excluded	Exclusion	Notes
Home-Based Care Payments	Payments made by or authorized by a state Medicaid agency or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit.	Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to the income earned by the family for other caregiving services provided to individuals outside of the assisted household.
Loan Proceeds	The net amount disbursed by a lender to a borrower under the terms of a loan agreement, received by the family or a third party.	This may include, but are not limited to, personal loans (with a loan agreement) and student loans. The borrower or co-borrower must be a member of the family.
Replacement Housing Gap Payments	"Gap" payments to offset the increased out-pocket costs of displaced persons who move from one federally subsidized housing unit to another federally subsidized housing unit.	These payments are included if the increased cost of rent and utilities is reduced or eliminated but the gap payments continue. (Gap payments cover a minimum 42 months of tenancy in a new unit.)
Gross Income from Self-Employment or Operation of a Business	All income amounts received into the business, prior to the deduction of business expenses; And withdrawals of cash/assets from the operation of the business used to reimburse the family for cash/assets previously invested in the operation of the business.	Net income (gross income amount minus business expenses) is considered income.
Exclusions from Other Federal Statutes	All amounts that HUD is required by federal statute to exclude: 89 FR 6126 - https://www.federalregister.gov/d/2024-01873	Some Examples (not exhaustive): Payments received by a Veteran from the Agent Orange Settlement Fund, payments made under the Victims of Crime Act of 1984 & Payments received from programs funded under Title V of the Older Americans Act of 1965

2. DEFINITIONS: 24 CFR 5.100, 5.403, 5.603

All definitions below were included in the January 2025 version of EOHLC's Administrative Plan. Definition names highlighted in bold are new definitions. All others are expansions of existing definitions.

Name	Definition	CFR Notation
Earned Income	Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-	24 CFR 5.100

Name	Definition	CFR Notation
	employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.	
Unearned Income	Annual income, as calculated under 24 CFR 5.609, that is not earned income.	24 CFR 5.100
Family	The final rule revises the definition of family to also include a single person who: <ul style="list-style-type: none"> • Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age; • Has left foster care, or will leave foster care within 90 days; • Is homeless or is at risk of becoming homeless at age 16 or older. 	24 CFR 5.403
Day Laborer	An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. Income from this source is NOT considered nonrecurring income and MUST be included in the household income.	24 CFR 5.603(b)
Independent Contractor	An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax. “Gig workers” (ex. babysitters, rideshare drivers, landscapers, etc.) fall into this category. Income from this source is NOT considered nonrecurring income and MUST be included in the household income.	24 CFR 5.603(b)
Seasonal Worker	An individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Income from this source is NOT considered nonrecurring income and MUST be included in the household income.	24 CFR 5.603(b)
Dependent	A member of the family (which excludes foster children and foster adults) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student.	24 CFR 5.603(b)
Foster Child	A member of the household who meets the definition of a foster child under State law. In general, a foster	24 CFR 5.603(b)

Name	Definition	CFR Notation
	child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.	
Foster Adult	A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.	24 CFR 5.603(b)
Health & Medical Care Expenses	Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated (but not reimbursed through another program) during the period for which annual income is computed.	24 CFR 5.603(b)
Minor	A member of the family, other than the head of the family or spouse, who is under 18 years of age.	24 CFR 5.603(b)

3. DE MINIMIS ERRORS: 24 CFR 5.609(c)(4); 882.515(f); 882.808(i)(5); 960.257(f); and 982.516(f)

De minimis errors occur when a determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). EOHLC or the RAA will not be considered out of compliance solely due to de minimis errors in calculating family income.

EOHLC or the RAA, once aware of the existence of an income calculation error, must correct the error retroactive to the effective date of the action regardless of dollar amount. EOHLC or the RAA must credit or repay the family if the family was overcharged tenant rent. However, families will not be required to repay EOHLC or the RAA in instances where EOHLC or the RAA miscalculated the income resulting in the family being undercharged for rent.