

MISSION-DRIVEN HOTMA IMPLEMENTATION

DISCRETIONARY CHECKLIST

HOUSING PROVIDERS CAN MAKE CRITICAL HOTMA IMPLEMENTATION DECISIONS TO PROTECT OLDER ADULT RESIDENTS.

While the Housing Opportunity Through Modernization Act (HOTMA) requires many mandatory updates to HUD-assisted Multifamily Housing property policies, communities are given critical discretion on certain implementation decisions. **Many of these discretionary areas impact older adult residents.**

LeadingAge urges members to implement HOTMA in ways that **retain housing stability for residents and that are financially beneficial for older adult residents with low incomes.** We also urge communities to adopt options that streamline housing processes, providing relief to both housing staff and residents.

MISSION-DRIVEN HOTMA IMPLEMENTATION: DISCRETIONARY CHECKLIST

LeadingAge and DeSilva Housing Group have developed a [Mission-Driven HOTMA Implementation Discretionary Checklist](#) with suggested approaches for discretionary updates to Tenant Selection Plans.

Asset Limitations: HOTMA establishes, for the first time, asset limitations in HUD's project-based Section 8 programs (including Section 202/8 and RAD-converted PRACs but excluding Section 202 PRACs) to create a restriction on the eligibility of a household to receive assistance. In its February 2, 2024, reissued implementation guidance (Notice H-2023-10), HUD clarifies that owners are given asset limit enforcement discretion at annual and interim reexaminations. Housing providers must adopt the new limitations for all move-ins and initial certifications (ICs), excluding RAD conversion ICs (new residents or residents restarting subsidy), but owners can decline to enforce the asset limits at recertification (in-place residents receiving subsidy). In addition, owners can establish expansive exemptions that would deem real property owned by applicants as unsuitable for occupancy by that family.

Older adults with low incomes are particularly impacted by the asset restrictions: Older adults are more likely to have accrued modest assets over their lifetime, but they are not always able to pay market rate housing for very long with those assets. Similarly, older adults are more likely to own real property, but they are also less likely to be able to age there, for example due to lack of proximity to supportive services.

LeadingAge strongly urges housing providers to adopt non-enforcement policies for HOTMA's new asset limits for in-place residents, allowing them to remain stably housed, as enforcement of the asset limits will lead to some residents losing assistance.

Interim Recertifications: HOTMA includes both required and discretionary changes to policies regarding what prompts an interim recertification and how that change is captured on the certification. For example, under HOTMA, owners are required to adopt a policy for when to conduct an interim recertification if a household loses income. Adopting a percentage threshold between 0% and 10% is required, but housing providers establish the exact percentage themselves. Older adults are more likely to be on fixed incomes, but many older adult households have earned income that can fluctuate.

Because losing income impacts the household's ability to pay rent and manage other expenses like food and medical costs, LeadingAge urges housing providers to adopt a low percentage threshold, so that household's recertifications can reflect the reduced income.

Self-Certification of Assets and Streamlined Certifications: Under HOTMA, owners may accept a family's self-certification of net family assets under \$50,000, without taking additional steps to verify accuracy, at admission and reexamination. Owners may also adopt streamlined certification processes for households on 90% fixed incomes.

Older adults are more likely to have income derived from fixed income sources. Older adults are the fastest-growing group of people experiencing homelessness, and reducing barriers to accessing housing is a priority for LeadingAge.

LeadingAge urges housing providers to adopt a self-certification policy, as well as streamlined certification policies, because these practices reduce the initial burden on applicants and enable households to move into stable, affordable housing quicker.

Hardship Exemptions: HOTMA allows housing providers to adopt hardship exemptions for medical, disability-related, and childcare expenses. When implemented, certain in-place households receive phased-in relief for expenses that are deducted from income and rent calculations. Owners must develop written policies in their TSPs that define what changes in circumstances qualify residents for a hardship exemption.

Older adults are more likely to have higher medical- and disability-related expenses, and the changes to deductions under HOTMA could lead to increased rents for certain households. LeadingAge urges providers to adopt broad relief policies for residents adapting to changes in deductions under HOTMA.

AND MORE! REVIEW OUR DISCRETIONARY IMPLEMENTATION CHECKLIST BELOW.

Please note that this is not an exhaustive list of discretionary topics under HOTMA, nor is it a complete list of updates that providers need to make to their Tenant Selection Plans and House Rules. LeadingAge and DeSilva Housing Group make no guarantees for the below recommendations for Tenant Selection Plan updates. Housing providers are encouraged to customize the example discretionary policies provided below to suit the needs of their communities and to align with their own interpretations of HUD's HOTMA guidance. Additional LeadingAge resources are forthcoming.

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LEADINGAGE RECOMMENDED DISCRETIONARY POLICIES

ASSET LIMITS FOR IN-PLACE SECTION 8 RESIDENTS

- **LeadingAge supports total non-enforcement as the first choice for mission-driven housing providers.** Older adults are more likely to have accrued modest assets or real property over their lifetime, and yet they are often still in need of affordable, service-enhanced, community-based housing options. In instances where total non-enforcement is not adopted by the property, LeadingAge supports the strongest exemptions possible, such as exemptions for extremely low income (ELI) households and households with an older adult member of the family, as well as the longest amount of time possible (up to six months) to correct assets or delay termination of assistance.
- **Example Asset Limit Policy for In-Place Residents:** *For all families that are found to be non-compliant with the asset limitation, the MFH Owner will not enforce the asset limitation at reexamination.*

DISQUALIFYING REAL PROPERTY FOR APPLICANTS AND IN-PLACE RESIDENTS

- **LeadingAge supports expansive hardship exemptions for real property that is unsuitable for occupancy due to aging-related impediments,** such as property that is located too far from a household's medical care or supportive services.
- **Example Real Property Exemption Policy (for move-ins/initial certifications and recertifications):** *For all applicants that are found to be non-compliant with the real property asset limitation, the MFH Owner will exempt real property as unsuitable for occupancy if the distance between the real property owned by the family and supportive services accessed would present a hardship, as certified by the applicant. The MFH owner will also exempt real property as unsuitable for occupancy if residing at the property would otherwise impede independent aging, as certified by the applicant.*

STREAMLINED VERIFICATION OF ASSETS UNDER \$50,000

- **LeadingAge supports self-certification of net family assets to streamline housing operations for providers and residents and speed up the leasing process.** Owners must include in their TSPs whether they will accept a family's self-certification of net family assets equal to or less than \$50,000 (adjusted annually for inflation) at admission and/or at reexamination. MFH Owners may accept a family's self-certification of net family assets, and anticipated income earned from assets, without taking additional steps to verify accuracy, at admission and at reexamination.
- **Example Asset Verification Policy (for move-ins/initial certifications and recertifications):** *This property has opted to utilize the streamlined asset verification processes when processing households for admission whose Net Cash Value of Assets Is at Or Below the Current Asset Threshold Established by HUD (currently \$50,000 - Subject to Annual Adjustment by HUD). Via this option, management will accept the family's witnessed self-certification providing the net cash value of assets not specifically excluded and any known income from those assets. This option is not available to households whose net cash value of assets, that are not specifically excluded, exceeds \$50,000. Any additional streamlined verification methods utilized with in-place household at reexaminations are expanded upon in the property's House Rules.*

STREAMLINED CERTIFICATIONS FOR HOUSEHOLDS WITH FIXED INCOMES

- **LeadingAge supports streamlined certifications for in-place households where 90% or more of income is derived from fixed income sources.** Older adults are more likely to be on fixed incomes, and streamlining certifications will reduce the burden on both housing providers and households. Note: utilization of this option is not permitted for new admissions. However, if used at recertification, the TSP must state this.

- **Example Streamlined Certifications Policy:** *This property has opted to utilize the streamlined certification process when recertifying in-place households with 90% or more of income from fixed income sources. The property will utilize streamlined asset verifications for assets under \$50,000, the application of COLA increases for fixed income sources, and will accept tenant self-certification for non-fixed income sources in Years 2 and 3. In Year 4, traditional written third-party verifications will again be used. Any additional streamlined verification methods utilized with in-place household at reexaminations are expanded upon in the property's House Rules.*

MEANS-TESTED VERIFICATIONS (AKA SAFE HARBOR DETERMINATIONS)

- **LeadingAge supports the use of Means-tested verification at admission for verifications produced in conjunction with other federal housing programs.** Utilizing means-tested verifications will help expedite the move in process for older adults. MFH Owners that choose to implement Safe Harbor income determinations must establish in the TSP when they will accept Safe Harbor income determinations and create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.
- **Example Means-tested Verification Policy:** *For new admissions only, this property will accept the following types of means-tested verifications: HUD Form 50058s, HUD Form 50059s, and Tenant Income Certification (TIC) used by the IRS's Low Income Housing Tax Credit Program. If multiple versions are provided by the household, the most recently dated verification will be used. Note: TICs will only be accepted if produced by an associated property within the management company's portfolio of properties.*

EIV INCOME DETAIL REPORTS AS ACCEPTABLE VERIFICATION OF INCOME AMOUNTS

- **LeadingAge supports the use of EIV Income Detail Reports as acceptable verification of income amounts for in-place households' recertifications when members agree with the figures on the report.** This verification process will expedite the recertification process for both managers and households needing to calculate annual income from wages, unemployment, and SSA federally paid benefits.
- **Example Verification Hierarchy Policy:** *Following admission, management will utilize EIV Income Detail Reports accompanied by household self-certification denoting agreement with the sources and figures for any type of EIV-recognized income source (wages, unemployment, and SSA federally administered benefits). Additionally disclosed income sources, not reflected in EIV, will be verified via written third party methods.*

EXPENSE HARDSHIP EXEMPTIONS

- **LeadingAge supports expansive hardship exemptions for all three categories of expenses (medical, disability related, and childcare) to assist households that are struggling to pay their rent due to increased expenses, loss of income, or depletion of available assets.** The application of broad hardship exemptions will provide housing security to households experiencing financial events that make it difficult for the household to pay their rent, thereby decreasing the likelihood of termination actions being necessary.
- **Example Hardship Exemption Policy:** *This property has adopted a policy to grant 90-day exemptions to temporarily reduce the household's out-of-pocket portion of verified expenses that are not covered by the standard expense deductions defined by HUD for medical care, reasonable attendant care & auxiliary apparatus, and childcare in applicable financial circumstances. Households will be permitted to request extensions of the relief, through written self-certification, so long as the financial hardship still exists (i.e, the expense is ongoing). Households that have submitted a Notice to Vacate will not be eligible for an extension to the hardship exemption.*

PHASED-IN RELIEF FOR MEDICAL AND DISABILITY EXPENSES

- **LeadingAge supports owners adopting admission policies that allow for the continuation of phase-in on the move-in certification**, when the family was receiving the phased-in relief at their prior assisted housing at the time that the family moved to the current property. This approach continues phased-in relief even when a household moves.
- **Example Phased-In Relief Policy:** *This property has adopted a policy to allow for the continuation of phase-in of medical and disability expenses for approved applicants moving directly from another subsidized property. The applicant household must produce evidence of phase-in on their last signed 50059 certification in effect at the time of move out. This helps to ensure previously assisted households with phase-in relief receive the maximum benefit until out-of-pocket portions are adjusted to the new 10% amount of gross annual income.*

RULES FOR INTERIM RECERTIFICATIONS

- **LeadingAge supports owners adopting Interim Recertification policies that allow for reduction of tenant rent when households lose income, incur more expenses, or undergo family composition changes that, in turn, eliminate deductions. Similarly, LeadingAge supports policies that establish a higher threshold for income increases that must be reported between annual recertifications.** Collectively, these reporting requirements should result in less administrative burden for housing managers, while preserving the affordability of the unit for households that experience income reductions.
- **Example Interim Recertifications Policy:** *This property has adopted a policy to process all reported income reductions. The owner will not create an interim recertification for an increase in income that occurs within three months of the household's scheduled annual recertification. The owner will not create an IR for an increase in earned income following an interim recertification reflecting an income decrease. Those increases will be incorporated into the next annual recertification. Specific instances wherein the household is required to report the change to the owner are outlined in the property's House Rules for in-place households.*