

Chapter 27

OVER-INCOME LIMIT POLICY

PURPOSE OF OVER-INCOME LIMIT POLICY

Over-Income Families [24 CFR 960.261; FR Notice 83 F.R. 35490 published 7/26/18] The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two consecutive years, the IHA must either terminate the family's tenancy within six months of the determination, or charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds, as determined by regulations.

IHA also have discretion, under 24 CFR 960.261, to adopt policies allowing termination of tenancy for families whose income exceeds the limit for program eligibility. Such policies would exempt families participating in the Family Self-Sufficiency (FSS) program or currently receiving the earned income disallowance.

IHA Policy At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, the IHA will document that fact in the family file and begin tracking the family's over-income status. If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the IHA will notify the family in writing that their income has exceeded the over-income limit for one year, and that if the family continues to be over-income for 12 more consecutive months, the family will be subject to the IHA's over-income policies. If two years after the applicable annual or interim reexamination the family's income continues to exceed the over-income limit, the IHA will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The IHA will notify the family in writing of the new rent amount. The new rent amount will be effective thirty (30) days after the IHA's written notice to the family. If at any time an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with IHA policy. If as a result the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The IHA will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family is entitled to a new two-year grace period.

The IHA will not evict or terminate the tenancies of families whose income exceeds the income limit for program eligibility as described at 24 CFR 960.261.