

Chapter 9.B.

REEXAMINATIONS UNDER HOTMA 102/104

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 9.A. of the model policy.

With the exception of non-public housing over income families, COC is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. COCs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which COC must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires COC to offer all families the choice of paying income-based rent or flat rent at least annually. COC's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains COC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains COC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and COC policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Part V: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, COC must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, COC must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. For any non-public housing over income families, COC may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, COC must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

COC is required to obtain all the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of COC. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using “Safe Harbor” income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA’s policies related to streamlined income determinations and the use of Safe Harbor income verifications.

This part contains COC’s policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

COC must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12- month period [24 CFR 960.257(a)(1)].

COC Policy

Generally, COC will schedule annual reexaminations to coincide with the family’s anniversary date. COC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family’s last annual reexamination or, during a family’s first year in the program, from the effective date of the family’s initial examination (admission).

If the family transfers to a new unit, COC will perform a new annual reexamination, and the anniversary date will be changed.

COC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of Participation in the Annual Reexamination Process

COC is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of COC. However, COCs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. COC should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

COC Policy

Families generally are required to complete the annual reexamination process via the resident portal. If completing the process electronically poses a hardship because of a family member's disability, the family should contact COC to request reasonable accommodation.

Notification of the annual reexamination will be sent via the resident portal, by first-class mail or by email, and will inform the family of the information and documentation that must be provided to COC, and the deadline for providing it.

Documents will be accepted by resident portal, mail, email, fax, or in-person. COC will, however, conduct reexams in person if requested as a reasonable accommodation or by LEP persons. Reasonable accommodation requests will be handled in accordance with policies in Chapter 2.

Further, an in-person interview will be scheduled if the family requests assistance in providing information or documentation requested by COC or if the required paperwork is not returned timely, or if it is returned timely but is not complete.

If the family is unable to attend a scheduled interview, the family should contact COC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview COC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without COC approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

If the reexam notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 13) will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

COC Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a COC-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or any stated deadline must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe Harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: COC determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the COC's annual reexamination paperwork.

Step 2: COC takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, within the last reexamination cycle and there are no additional changes, COC must use the annual income from the interim to determine the family's total annual income. COC may use verification obtained from the interim for this step.
- If COC did not perform an interim or there have been changes since the last reexamination, the COC moves to Step 3.

Step 3: If there were changes in annual income not processed by the COC since the last reexamination, COC must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, COC may use documentation of prior-year income to calculate the annual income. For example, COC may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by COC, for example:
 - Year-end statements
 - Paystubs with year-to-date amounts
 - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or COC notes discrepancies between EIV and what the family reports, COC must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how COC calculates income from different sources at annual reexamination using the above method.

COC Policy

When income is calculated using Safe Harbor determination from a means-tested federal public assistance program in accordance with COC policies in Chapter 7, the above is not applicable. However, where the family disagrees with COC or other agency's determination of income or COC has other reason to use third-party verification in these circumstances, then the above will apply.

9-I.E. OTHER CONSIDERATIONS

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

COC Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

COC Policy

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. COC will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If COC proposes to terminate assistance based on lifetime sex offender registration information, COC must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for COC's policies governing compliance with the community service requirement.

9-I.F. EFFECTIVE DATES

As part of the annual reexamination process, COC must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

COC Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If COC chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by COC, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If COC chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by COC.

If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by COC by the date specified, and this delay prevents COC from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS
[24 CFR 960.253(f)]

9-II.A. OVERVIEW

HUD requires that COC offer all families the choice of paying income-based rent or flat rent at least annually. COC's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, COC must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)]. COC is only required to provide the amount of income-based rent the family might pay in those years that COC conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, COC must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains COC's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

COC Policy

For families paying flat rents, COC will conduct a full reexamination of family income and composition once every three years.

However, for flat rent families who become over-income between full annual reexaminations, COC will ,. conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, COC will resume reexamination of family income and composition once every three years.

If determination is as a result of an interim reexamination, COC will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, COC will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

COC Policy

In conducting full reexaminations for families paying flat rents, COC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.E above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)

As noted above, full reexaminations are conducted every three years for families paying flat rents. In the years between full reexaminations, regulations require the COC to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that COC does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

Scheduling

COC must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

COC Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, COC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

COC Policy

Generally, the family will not be required to attend an interview for an annual update. However, if COC determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent via the resident portal, by first-class mail or by email and will inform the family of the information and documentation that must be provided to COC. The family will have 10 business days to submit the required information to the COC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. COC will accept required documentation via resident portal, mail, by email, by fax, or in person.

If the family’s submission is incomplete, or the family does not submit the information in the required time frame, COC will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to COC.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. COC may use the results of the annual

reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

COC Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals, COC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for COC's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

24 CFR 960.257(b); 24 CFR 966.4; and Notice PIH 2023-27

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

COC Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations within 30 days of when the change occurs

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require COC approval. However, the family is required to promptly notify COC of the addition [24 CFR 966.4(a)(1)(v)].

COC Policy

The family must inform COC of the birth, adoption, or court-awarded custody of a child within 30 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which COC consent will be given or denied. Under such policies, the factors considered by COC may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- COC's obligation to make reasonable accommodation for persons with disabilities.

COC Policy

Families must request COC approval to add a new family member (other than due to birth, adoption, or court-awarded custody), live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by COC prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), COC will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by COC. Exceptions will be made on a case-by-case basis.

COC will not approve the addition of a new family or household member unless the individual meets COC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If COC determines that an individual does not meet COC's eligibility criteria or documentation requirements, COC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

COC will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

The family must promptly notify the PHA if any household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

COC Policy

If a household member ceases to reside in the unit, the family must inform COC within 30 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

COC will process an interim if the family's adjusted income will decrease as a result of a family member permanently moving out of the unit.

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9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

COC Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim reexaminations for changes in income or expenses may be scheduled either because COC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

COC must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, COC may decline to conduct an interim reexamination if the COC estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. COC may set a lower threshold in COC's policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the COC from setting a dollar-figure threshold.

However, while COC has some discretion, HUD requires that COC perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, COC must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then COC must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

COC Policy

COC will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

COC must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

COC must conduct an interim reexamination of family income when COC becomes aware that the family's adjusted income has changed by an amount that COC estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- COC may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- COC may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, COC has the discretion whether to consider a subsequent increase in earned income.

COC Policy

When a family reports an increase in their earned income between annual reexaminations, COC will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

COC will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

COC will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with COC policies in Chapter 15.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent

threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

COC Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify COC of changes either orally or in writing, including email. If the family provides oral notice, COC may also require the family to submit the changes in writing, including email.

Within 10 business days of the family reporting the change, COC will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, COC will note the information in the tenant file but will not conduct an interim reexamination. COC will send the family written notification (which may be emailed) within 10 business days of making this determination informing the family that COC will not conduct an interim reexamination.

If the change will result in an interim reexamination, COC will determine the documentation the family will be required to submit based on the type of change reported and COC policies in Chapter 7. COC will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from COC. This time frame may be extended for good cause with COC approval. COC will accept required documentation via the resident portal, by mail, email, or in person. COC will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if COC determines that an interview is warranted, the family may be required to attend.

9-III.D. EFFECTIVE DATES

Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

COC Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, COC will apply the decrease the first of the month following completion of the interim reexamination.

However, COC will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions COC management operations. COC will decide to apply decreases retroactively on a case-by-case basis.

When COC applies the results of interim increases retroactively, COC will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with COC policies.

PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS

Notice PIH 2023-27

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations, but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the childcare expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

PART V: RECALCULATING TENANT RENT

9-V.A. OVERVIEW

For those families paying income-based rent, COC must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-V.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in COC's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

COC Policy

Unless COC is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-V.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires COC to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When COC redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of COC's schedule of Utility Allowances for families in COC's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, COC must notify the tenant that the tenant may ask for an explanation stating the specific grounds of COC determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under COC's grievance procedure [24 CFR 966.4(c)(4)].

COC Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-V.D. DISCREPANCIES

During an annual or interim reexamination, COC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, COC may discover errors made by COC. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the March 1 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the last annual reexamination. The SSA-published COLA is 7 percent.

Last reexamination – Annual Reexamination

Ruby:

Wages: \$30,000

Georgia:

SSI: \$10,980 (\$915 monthly)

The EIV report pulled on 12/15

Ruby:

Wages Total: \$33,651

Quarter 3 last year: \$8,859 (City Public School)

Quarter 2 last year: \$8,616 (City Public School)

Quarter 1 last year: \$8,823 (City Public School)

Quarter 4 last year: \$7,353 (City Public School)

Georgia:

SSI Total: \$10,980

Last year: \$915 monthly benefit

<u>Income Reported on Reexamination Application</u>	
Ruby:	Georgia:
Wages at City Public School: \$32,000 (switched jobs but no permanent change to amount)	SSI benefits: \$10,980 (no changes)
<u>Calculating Ruby's wages:</u> Step 1: Determine prior annual income from EIV (i.e., Q4 previous year through Q3 last year: \$33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the March 1 annual reexamination given there have been no additional changes to annual income.	<u>Calculating Georgia's SSI benefit:</u> Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the March 1 annual reexamination: COLA: \$64.05 (\$915 x 0.07) New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
Ruby (Head of Household):	Georgia (Other Youth Under 18):
Other Wage: \$33,651	SSI: \$11,748
Myers Family Total Annual Income: \$45,399	

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:
Family Disagrees with EIV**

Staff are processing Paul Hewson's May 1 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective July 1. After the July 1 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

May 1 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15

Wages Total: \$18,271

Quarter 3 last year: \$2,500 (Viking Bakery)

Quarter 3 last year: \$796 (Sweet Tooth Candy Bar)

Quarter 2 last year: \$1,300 (Sasha's Sweets)

Quarter 2 last year: \$584 (Larry's Concessions)

Quarter 2 last year: \$2,401 (Viking Bakery)

Quarter 1 last year: \$6,500 (Sasha's Sweets)

Quarter 4 last year: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

<u>Income Reported on Reexamination Application</u>
<u>Wages: \$0 (permanent change; no longer receiving)</u>
<u>Social Security: \$14,400 (\$1,200 monthly)</u>
Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective March 1.
<u>Calculating Wages and SS Benefit</u>
Step 1: Determine prior annual income taking into consideration the July 1 interim reexamination (i.e., EIV wages reflected Q4 last year through Q3 this year: \$18,271) Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a July 1 interim that reduced wages to \$7,500. Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all. Process the annual reexamination effective May 1 using annual SS income of \$14,400 and \$0 wages.
<u>Summary of Annual Income (as reported on the HUD-50058)</u>
Paul (Head of Household): \$14,400 (SS) Hewson Family Total Annual Income: \$14,400

Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the November 1 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On February 14 of this year Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month. An interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

Last reexamination – November 1 Annual Reexamination

Samantha:

Business income: \$28,000

VA disability pension: \$12,000

Child support: \$2,400

Fergus:

Wages: \$8,250

Other non-wage income: \$3,000 (Go Fund Me online fundraiser)

The EIV report pulled on 9/16

Samantha:

Wages Total: \$0 (no wage data reported since Q1 last year)

Fergus:

Wages Total: \$8,600

Quarter 1 this year: \$2,100 (Ian's Fish 'n' Chips)

Quarter 1 this year: \$500 (Claire's Healthcare Supplies)

Quarter 4 this year: \$1,000 (Claire's Healthcare Supplies)

Quarter 3 this year: \$1,800 (The Onion Garden Shop)

Quarter 2 this year: \$3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the November 1 annual reexamination.

Samantha:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Fergus:

Wages: \$6,000

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective November 1 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective November 1 using annual VA pension income determined in Step 3 (\$12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning March 1 through the current month. Process the annual reexamination effective November 1 using current annual child support income determined in Step 3 (\$1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 last year through Q1 of this year: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective November 1 using income from wages determined in Step 3 (\$9,360 in this example).

Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn’t solicited funds online and doesn’t plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective November 1 using annual non-wage income of \$0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860