

Rent in Public Housing

A Know Your Rights Guide for
Public Housing Tenants in Massachusetts



July 8, 2025

Acknowledgments:

This booklet, which was originally released in 2009, was updated in June 2025 by a team of legal services advocates: Ryan Kenney, Susan Hegel, and Salomon Campos-Rice at Cambridge and Somerville Legal Services office of Greater Boston Legal Services, Mac McCreight, an Access to Justice Fellow at Greater Boston Legal Services, and Annette Duke at Massachusetts Law Reform Institute.

Support for the translation of this booklet was provided by the Massachusetts Legal Assistance Corporation through the Access to Counsel Program.

Because laws and regulations change, make sure you have the most up-to-date version of the booklet by checking www.MassLegalHelp.org/housing/rent-public-housing.

Date of publication: **June 2025** (Edition 3)

Table of Contents

How to Calculate Rents..... 9

1. If I live in public housing, how is my rent calculated?9
2. Is my rent always based on my income?10
3. What is counted as income?.....12
4. What is NOT counted as income?14
5. What must be deducted before setting rent?17

Special Issues..... 20

6. What if I have high medical costs?20
7. If I get child support, will it be counted towards my rent?22
8. When are lump sum amounts not counted towards rent?23
9. Are assets counted as income?.....23
10. If I pay for any utilities, does that affect my rent?24
11. If I have no income, can I be charged rent?26
12. If I work and my rent increased a lot, what can I do?.....27

Trouble Paying Rent 29

13. If I cannot afford my rent this month, what can I do?29
14. What if I pay my rent late?30

Income Changes..... 31

15. When must I report changes in my household's income?31
16. If my income goes up and I do not report this right away,
can I get in trouble?.....33

17. What should I do if my income changes a lot during the year?.....	34
18. Can the housing authority retroactively increase my rent?.....	35
19. What kind of notice am I supposed to get about a rent increase?.....	36
20. When can I ask for a decrease in rent?	36
21. When should a rent decrease take effect?	37
22. What if I told the housing authority that my income went down, but they did not lower my rent?	38
23. What papers do I need to prove my income?.....	39

Family Changes 40

24. When do I report changes in my family?.....	40
25. How can I add someone to my household?	40
26. How do I remove someone from my lease?.....	42
27. If my housing authority says I am overhoused, what can happen to my rent?	43
28. Are there rules about being over-income for continued occupancy in public housing?	44

Mixed Finance Housing 45

29. What is Mixed Finance housing?.....	45
30. How are rent rules different for Rental Assistance Demonstration (RAD) than for Public Housing?	46
31. Does recertification work differently for Mixed Finance than for Public Housing?	47
32. Is there a different way to dispute rent or eligibility for Mixed Finance than for Public Housing?.....	48
33. Are there some “affordable units” in Mixed Finance housing that may not get the benefit of public housing or Section 8/MRVP rent rules?	49

Sample Letter..... 51

34. Sample Rent Freeze Letter: State Public Housing.....52

Glossary..... 53

How to Use this Booklet

If you are a tenant in public housing in Massachusetts, this booklet will give you answers to questions about how rents are set in both state and federal public housing. Words that are *italicized* are in the glossary.

In addition, if you are living in public housing that is being redeveloped and you will no longer be in public housing, but in a mixed finance development with other types of subsidies, this booklet explains how rents may change.

Share with Tenants

Please share this booklet freely with tenants, housing authorities, and organizations working with tenants and check for updates. Go to:

www.MassLegalHelp.org/housing/rent-public-housing

Federal Tenants Keep in Mind

Legislation passed by Congress in 2016 called the Housing Opportunity Through Modernization Act (HOTMA, pronounced “Hot Ma”) made major changes to how rents are set in federal public housing and Section 8. The U.S. Department of Housing and Urban Development (HUD), however, has not yet implemented all of the HOTMA rules. This means that certain pre-HOTMA rent rules are still in effect.

To keep this straight, we have legal citations in the endnotes to both pre-HOTMA rules (now in effect) and

HOTMA final rules (will go into effect when HOTMA is implemented).¹ When HOTMA changes become effective, we will update this booklet.

How to Calculate Rents

1. If I live in public housing, how is my rent calculated?

Usually, rent in public housing is a percentage of your anticipated yearly income. This is called *income-based rent* because it is based on your income. (See **Question 2** for other ways that rents are set.) The way that *income-based rent* is set is:

- You give the housing authority information about the income you **anticipate** coming into your *household* for the coming 12 months.
- The housing authority then subtracts certain *deductions* and arrives at an amount called your *net income* (for state public housing) or *adjusted income* (for federal public housing).
- The housing authority then determines your rent based on a percentage of your *net* or *adjusted income*.

The exact percentage depends on whether you live in state or federal public housing. If you do not know whether you live in state or federal public housing, ask your manager or check your lease.

State public housing

For **elderly/disabled** public housing, your rent will be the following:

- If you pay no utilities separately, rent = **30%** of your *net income*
- If you pay some or all utilities, rent = **25%** of your *net income*

For **family** public housing, your rent will be the following:

- If you pay no utilities, rent = **32%** of your *net income*
- If you pay some, but not all, utilities, rent = **30%** of your *net income*
- If you pay all utilities, rent = **27%** of your *net income*.²

Federal public housing

If you live in any kind of federal public housing, you generally pay whichever is more: **30%** of *adjusted income* or **10%** of *annual income*.³ Most tenants pay 30% of adjusted income.⁴ If you pay utilities, then a *utility allowance* is subtracted from this monthly amount.

2. Is my rent always based on my income?

No. There are some situations in both state and federal public housing where the rent is **not** going to be a percentage of your income.

Federal public housing

Moving to Work Housing Authorities

If you live in federal public housing in Cambridge, Holyoke, Brockton, Medford, or Watertown, your housing authority has received special permission to create its own rules about how to set rents.⁵ To find out what those rules are read the housing authority's current *Admissions and Current Occupancy Policy* (ACOP) and its annual Moving to Work Plan.

Minimum rent

In federal public housing, housing authorities can charge a minimum rent of \$0-\$50 per month. For more information, see **Question 11**.

Flat rent

In federal public housing, housing authorities must establish a maximum *flat rent* for each apartment.⁶ This will vary by bedroom size and other factors. Make sure you know what the flat rent is for your apartment. You will have a choice of paying either 30% of income or the flat rent. If you have a high income and the flat rent is less than 30% of your household's income, you should choose the flat rent. If you are paying the flat rent and at any time you are unable to pay that amount because of a financial hardship, you can ask to return to an *income-based rent*.⁷ If you choose a flat rent, the housing authority must re-examine your income at least once every three years.

A number of years ago, some housing authorities set fairly low flat rents. Starting in 2014, Congress required that generally the flat rent had to be at least 80% of the Section 8 Fair Market Rent (FMR) for the area. The FMRs are revised every year, and usually increase, but not always. If there is a change in the FMRs, housing authorities must revise their flat rents.

HUD also provides that if the flat rent has been lower than 80% of FMR, the increase in the flat rent for a household can be phased in over three years so that the increase does not exceed 35% in any given year.⁸

Pro-rated rent and immigrants

If you live in federal public housing and your household includes immigrants who are not U.S. citizens or who are not *eligible noncitizens* (as defined by federal regulation), the family usually must pay a *pro-rated rent*.⁹ This figure is often much higher than the regular rent.¹⁰

Welfare sanctions and rent

If you live in federal public housing and your Transitional Aid to Families with Dependent Children (TAFDC) grant was lowered because the Department of Transitional Assistance *sanctioned* you for welfare fraud or for not doing its required work program, your public housing rent will not be lowered.¹¹

State public housing

Minimum rent

In state public housing, there is a *minimum rent* of \$5 a month.¹² For more information, see **Question 11**.

Overhoused family that refuses a transfer

In state public housing, if a family is *overhoused*, which means that the apartment is designed for a larger family, the housing authority is required to transfer this family to an appropriately sized apartment.¹³ For example, if a 3-person family is living in a 4-bedroom apartment, a housing authority can require them to transfer to a smaller unit.

If the family refuses to transfer to an available apartment, the housing authority is allowed to charge 150% of the *income-based rent*.¹⁴ This means that if the household would have paid \$300 per month under the regular income-based rules, the housing authority can charge \$450 until the family agrees to move to a smaller unit. See **Question 27**.

For more about transfer, see **Transfers in Public Housing: A Know Your Rights Guide**, available at www.MassLegalHelp.org/housing/transfers.

3. What is counted as income?

In state public housing, the income that the housing authority counts when calculating your rent is called *gross income*.¹⁵ In federal public housing, it is called *annual income*.¹⁶ While the rules about what is counted are slightly different for state or federal public housing, there are also many similarities.

Both state and federal public housing

Both state and federal public housing **count** the following as income:

Income from work: Wages, salaries, tips, overtime pay, commissions, fees, and bonuses.
Income from business: Net business income if self-employed or if income is from a business or profession. ¹⁷ If you own your own business, it is very important to set up good financial records. Your housing authority may be able to refer you to free services that can help you do this.
Income from assets: Income from property, such as rent, dividends, interest, capital gains, or trust income. For more information about <i>assets</i> , see Question 9 .
Social Security or Veterans Affairs (VA) disability periodic payments: Supplemental Security Income (SSI), Social Security Disability Income (SSDI), or Retirement, Survivors and Disability Insurance (RSDI), or VA disability benefits. Important: One big difference between state and federal housing is if you receive a deferred amount from SSI or SSDI (generally in a lump sum), it is counted as income in state public housing, but not in federal housing. VA deferred disability benefits are now treated by HUD the same ways as SSI and SSDI. ¹⁸ See Question 8 .
Government benefits: Transitional Aid to Families with Dependent Children (TAFDC) or Emergency Assistance to the Elderly, Disabled and Children Program (EAEDC) benefits.
Payments to replace earnings: Unemployment compensation, workers' compensation, disability insurance or benefits.
Periodic, regular allowances: Alimony, separate support, child support.
Other payments: Annuities, retirement funds, pensions, death or disability benefits, insurance policies, or other similar types of periodic payments.
Certain gifts or contribution: From someone not living in the apartment. ¹⁹

State public housing only

If you live in state public housing, the following additional income is **counted** when determining your rent:

Lottery and gambling winnings
Foster care payments
Principal from a trust
Taxable capital gain

Federal public housing only

If you live in federal public housing, the following additional income is **counted** when determining your rent:

Severance pay
Imputed welfare income for certain sanctions: The amount of income not received by a family as a result of a welfare benefit reduction for certain sanctions (See Question 2)

4. What is NOT counted as income?

Both state and federal public housing have rules stating that certain income should be ignored, or excluded, when determining your rent. These are called *exclusions*. *Exclusions* are not counted when calculating your *gross* or *annual income*.

Both state and federal public housing

If you live in either state or federal public housing, the following income is **not counted** when calculating rent:²⁰

Regular payments from <ul style="list-style-type: none">▪ Food stamps,▪ Fuel assistance,²¹▪ Payments under the SSI PASS (Plan for Achieving Self-Support) Program,▪ Payments under the Domestic Volunteer Services Act of 1973.
Certain one-time (or <i>lump sum</i>) payments <ul style="list-style-type: none">▪ Irregular gifts (for holidays, birthdays, or other significant life events or milestones like weddings and baby showers), inheritances, life insurance proceeds▪ Payments from insurance, worker's compensation, or court judgments or settlements that compensate for loss or personal injury
Earnings of the following people <ul style="list-style-type: none">▪ Minors,▪ Live-in attendants for person with a disability,▪ Members of armed forces in a war zone.
Earned income tax credit refunds
Payments received to compensate for medical care and expenses²²
Return of capital: A return of all or some of your original investment from sale or transfer of that investment.
Payments from the government later reimbursed to the government: For example, if you receive SSDI benefits of \$800/month, but the Social Security Administration deducts \$50/month for an earlier overpayment, then your rent is based on \$750/month SSDI.

State public housing only

If you live in state public housing, the following income is **not counted**:

Compensation for income lost when you were not living in public housing (including <i>lump sum</i> payments).
Volunteer Stipends: Payments or <i>stipends</i> you receive for volunteering on behalf of a tax-exempt non-profit organization, capped at 20 hours per week at minimum wage. ²³
Relocation payments from state or federal relocation funds.
Education-related payments: Scholarships or stipends for housing paid by a non-household member (for full-time or part-time students).
Training Programs or Apprenticeship: Payments from programs providing training for employment or apprenticeship, including wages received through the program and payments for costs such as transportation, fees, books, or child care during training. (This does not apply to wages from on-the-job training.) ²⁴
Earnings of the following people: Students 18-26 years old (who are not head of household or spouse) who are enrolled “half-time,” “full-time,” or anywhere between half-time and full-time, according to the standards of their school. ²⁵ A senior (over 62) who receives wages or an income from unemployment insurance, workers’ compensation or short or long-term disability. The amount excluded cannot be more than what a person working over 20 hours per week at minimum wage would earn. ²⁶ People who started working who received government cash assistance for 12 months before working. This is available once in a lifetime for the whole household and the head of household must request it. See Question 12 .
Veterans: Amounts paid to a veteran for tuition or other costs. Annuity payments made under the BRAVE Act to certain disabled veterans or to the parents or non-remarried surviving spouses of such veterans who are deceased. ²⁷ All but \$1,800 received from federal government by unemployable disabled veteran (<i>discretionary</i>).
Achieving a Better Life Experience (ABLE) Accounts: Contributions to and withdrawals from ABLE accounts are excluded from gross household income. ²⁸
Contributions or Gifts from non-household members totaling \$5,000 or less in a 12 month period. ²⁹

Federal public housing only

If you live in federal public housing, the following income is **not counted**:

Deferred Social Security and Veteran's Affairs (VA) disability: Deferred payments from SSI and SSDI and VA disability that are either <i>lump sum</i> payments or in prospective monthly amounts. (While this amount is not counted as income, it becomes an <i>asset</i> . See Questions 8 & 9 .)
Property tax rebates and capital gains
Regular payments: <ul style="list-style-type: none">▪ Foster care for children or adults;▪ Adoption assistance payments over \$480;▪ First \$200/month of a resident service stipend (includes resident commissioners);³⁰▪ Payments to crime victims;▪ Certain payments from federal programs: AmeriCorps, Job Training Partnership Act, Workforce Investment Act, the Child Care & Development Block Grant Act, the Older Americans Act of 1965 (senior aide program);▪ Reparations for persecution during Nazi era;▪ Certain repayments to Native Americans.
Education-related payments: <ul style="list-style-type: none">▪ Certain scholarship or grant-in-aid assistance or work-study paid to student or the institution▪ HUD-funded training programs▪ Incremental earnings when attending school or participating in an employment training program full-time.
Welfare-related payments: Reimbursements of out-of-pocket expenses (clothing, special equipment, transportation, child care) in order to participate in specific training programs.
Medical-related payments: Payments by a state agency to a family member with developmental disability for costs of services or equipment to keep family member at home.
Medicare: Any subsidy received to assist low-income people in paying for Medicare prescription drug plan costs. ³¹

5. What must be deducted before setting rent?

Before a housing authority sets your rent, it is required to subtract from your household's *gross* or *annual income* certain *deductions*.

In general, state public housing has more *deductions* than federal public housing. Housing authorities can adopt additional *deductions* for federal public housing.³² But they cannot add to the *deductions* listed below for state public housing.

For example, Boston Housing Authority allows a *deduction* of extraordinary medical expenses for all families in federal public housing—not just for elderly or disabled families living in federal public housing. Somerville Housing Authority has deductions for certain part time students and for young working adults.

To see if your housing authority has adopted additional deductions for federal public housing, ask your manager or check your housing authority's *Admissions and Continued Occupancy Policy* document.

Federal public housing

If you live in federal public housing, you are entitled to the following *deductions* before your rent is set.

Be aware that in 2016 Congress passed a law called the Housing Opportunity Through Modernization Act (HOTMA, pronounced “Hot Ma”). HOTMA authorized some significant changes in the deductions. In 2023, HUD issued final regulations related to HOTMA, BUT these changes will not be effective unless and until HUD software is updated. When that will happen is unknown. As a result, housing authorities are not able to implement these changes.

This means that certain pre-HOTMA rent rules are still in effect. To keep this straight, we have legal citations in the endnotes to both pre-HOTMA rules (now in effect) and HOTMA final rules (will go into effect when HOTMA is implemented).³³

Check your housing authority's *Admission and Continued Occupancy Policy* (ACOP) to see what rules are currently in effect.³⁴

Elderly and Disabled Family Deduction

\$400 per year for a family where the head of the household or spouse is 62 years of age or older or is a person with a disability.³⁵

Dependent Deduction

\$480 per year for each dependent.³⁶ This includes anyone who is:

- Under the age of 18,
- A full-time student, or
- A person with a disability.

Medical Deduction

The amount over 3% of your *annual income* which you are likely to spend on unreimbursed medical expenses only for a family member who is 62 or over or who has a disability.³⁷

For any household that is eligible for both medical deductions and disability deductions, you can combine and add those expenses together to reach the 3% threshold for a deduction from your annual income.

For more information about medical bills see **Question 6**.³⁸

Disability Deduction

The amount over 3% of your *annual income* which you likely to spend on unreimbursed expenses for disability assistance for any family member with a disability which are necessary for that person's employment.³⁹

This includes unreimbursed out-of-pocket costs for prescription drugs and medical insurance premiums and attendant care and auxiliary apparatus.⁴⁰

For any household that is eligible for both medical deductions and disability deductions, you can combine and add those expenses together to reach the 3% threshold for a deduction from your annual income.

Child Care Deduction

Child care payments for children under age 13, if a family member is employed, looking for employment, or in school.⁴¹

State public housing

If you live in state public housing, you are entitled to the following *deductions* before your rent is set: ⁴²

Elderly and Disabled Family Deduction \$400 per year for a household living in family public housing where the person who signed the lease is either 60 years or older or has a disability (unless the household is <i>overhoused</i>).
Family Deductions <ul style="list-style-type: none">▪ \$300 per year for each child under 18.▪ \$300 per year for each adult who has income (other than head of household), if that adult's <i>gross income</i> exceeds all his or her other deductions
Heat Deduction A yearly heat deduction where tenant pays heat. The amount of the deduction is determined by the Executive Office of Housing and Livable Communities (EOHLC). ⁴³
Medical Deduction Actual payments for necessary medical expenses not covered by insurance for any family member (including co-payments and insurance premiums) in excess of 3% of gross household income. ⁴⁴
Child and Family Care Deduction Payments for care of children or sick or incapacitated household members if necessary for employment of another household member.
Support If Separated or Divorced Child support or separate support, or alimony paid as a result of a court order to someone not living in the household.
Education Deduction Non-reimbursable payments for tuition and fees for vocational or other education after high school for household members. ⁴⁵
Deductions for People with Disabilities <ul style="list-style-type: none">▪ Non-reimbursable payments for reasonable and necessary housekeeping and personal care.⁴⁶▪ Certain travel expenses in connection with necessary activities which cannot be performed by another household member.⁴⁷

Special Issues

6. What if I have high medical costs?

If you have high medical expenses, you may be entitled to *deduct* these expenses from your income before your rent is determined. To do this you will need to keep very good records about your medical expenses—what you have paid and what you anticipate paying.

If an unanticipated major medical expense comes up during the course of the year, let the housing authority know as soon as possible so that a rent adjustment can be made. See **Question 20**.

Deductible medical expenses include:

- Payments or co-payments for services of doctors or other health care professionals;
- Hospitalization, clinic, or treatment costs;
- Medical or dental insurance premium costs;
- Out-of-pocket prescription drug costs and costs of non-prescription medicines which are doctor-recommended;⁴⁸
- Costs for dental care/work, eyeglasses, hearing aids (including batteries), special footwear which is medically required;
- Transportation to medical treatment (including parking and IRS mileage to and from the medical appointment);⁴⁹
- Live-in or periodic medical assistance at home;
- Monthly payments on accumulated medical bills;
- Payments for auxiliary apparatus such as wheelchairs, walkers, ramps, lifts, scooters, reading devices for people with visual disabilities, equipment to add to cars and vans for people with disabilities, or expenses associated with service or assistance animals.⁵⁰
- Cost of caring for service or emotional support animals.⁵¹

Bills which are paid or reimbursed by third parties (such as Medicaid or Medicare) are **not deductible**.

Federal public housing

If you live in federal public housing, you are allowed to deduct the amount of medical expenses that are over 3% of your *annual income* which you are likely to have, **but only for a family member who is 62 or over or a family member who has a disability**.⁵² The best way to show the housing authority what your medical expenses may be in the coming year is to bring in your

medical bills from the past year. Make sure that you do not submit the same medical bill twice.

Note: The housing authority in Boston has established a deduction for extraordinary medical expenses for all families in federal public housing, not just for elderly or disabled families.

In addition, if you live in federal public housing, you are allowed to deduct unreimbursed expenses related to the care of a disabled family member necessary to allow another family member to work. This can include the cost of attendant care or auxiliary apparatus.⁵³ Only the portion which exceeds 3% of *annual income* is deductible, and the deduction may not exceed the employment income of the family member who would otherwise be available to provide this care.⁵⁴ If this amount by itself does not exceed 3% of your *annual income*, it can be combined with the medical expense deduction listed in the previous paragraph.⁵⁵

State public housing

If you live in state public housing, you are allowed to deduct the amount you have actually spent on unreimbursed medical expenses **for any family member** in an amount that is over 3% of your *gross income*.⁵⁶

In addition, households living in family housing in which a tenant is elderly or has a disability are permitted a yearly household deduction of \$400.⁵⁷ This does not apply if you live in elderly/disabled housing. It also does not apply if you are *overhoused* in family housing.

Finally, if a household member has a disability, payments for reasonable and necessary housekeeping or personal care services may be deducted. This applies to both family and elderly/disabled housing.⁵⁸

7. If I get child support, will it be counted towards my rent?

Yes. In general, all child support that you receive, whether through a court order or by informal arrangement, will be counted as income for purposes of calculating your rent.

If you stop getting child support, ask the housing authority to lower your rent as soon as you stop receiving the support. See **Question 20**. For example, if part or all of the child support you received is going directly to the Department of Transitional Assistance (DTA) because you receive TAFDC, let the housing authority know so that your child support is not counted twice. If you stop receiving TAFDC and start getting child support you should also let the housing authority know right away.

Often, there is a problem as to how to verify the loss of the child support. The best way to show the loss of child support for your family is through the Massachusetts Department of Revenue's Child Support Enforcement (CSE) Division. The CSE tracks almost every child support payment made in the state, whether through income assignment or otherwise.

You can get information regarding your payment history by setting up an online account at the following website: mass.gov/orgs/child-support-services-division

Once you gain access to your account, you will be able to see the payment history, which you should download and/or print out and send to the housing authority. If you do not have access to the Internet, you can request payment history by calling CSE's Voice System at 800-332-2733.

Sometimes families get informal child support, either instead of a court order or in addition to a court order. Typically, these payments will be considered income if they can be considered regular gifts coming into the household. For example, if the non-custodial parent is regularly giving you \$100 in cash to help with the kids, the housing authority can count that as income. But if the other parent only occasionally buys your children clothes, that is likely to be seen as a sporadic gift or non-recurring income and will not be counted.

8. When are lump sum amounts not counted towards rent?

A *lump sum* is a one-time payment. When a housing authority calculates your rent, some lump sum amounts are not counted as income. Lump sum amounts that are not counted as income are still considered *assets* and the interest earned on them in future years will be counted as income. For more about assets, see **Question 9**.

If you live in federal or state public housing, the following lump sum payments are **not counted** as income in the year received when determining rent:

- Irregular gifts, inheritances, life insurance proceeds
- Payments from insurance, worker's compensation, or court judgments or settlements that compensate for loss or personal injury
- Returns on investments (*return of capital*).

Federal public housing

If you live in federal public housing, the following types of lump sum payments are also **not counted** as income when determining rent:

- Deferred periodic payments from SSI and SSDI, or deferred periodic Veterans Affairs (VA) disability payments.⁵⁹

9. Are assets counted as income?

In general, if something is considered an *asset*, its value is **not** added to your yearly income when determining your rent. But, if you have access to the income that is produced by the asset, that income that is earned from the asset will be counted when determining rent.

Under federal public housing rules, the following should be treated as assets:⁶⁰

- Bank accounts (savings or checking);
- Stocks, bonds, treasury bills, certificates of deposit;
- Real property, including real estate;
- Other capital investments;
- Trust funds;⁶¹
- One-time payments such as inheritances, life insurance proceeds, capital gains, and payments for injury or damages under workers compensation, insurance, or court awards. (If, however, the one-time

payment is to replace earnings in some way, it will generally be counted as income.⁶²⁾

Assets do not include necessary personal property, such as clothing, furniture, and cars.

If the total value of your assets is \$25,000 or less (state public housing) or \$5,000 or less (federal public housing), the housing authority will count the actual income earned.⁶³ If the value is more than \$25,000 for state or \$5,000 for federal, the housing authority will count the higher of the actual interest earned or the interest rate EOHLC (state) or HUD (federal) establishes.⁶⁴ For example, if you live in state public housing and have a bank account with more than \$25,000, the housing authority is required to act as if you have earned interest, even if you haven't. State and federal agencies tell housing authorities what rate of interest to use.⁶⁵

If you sell an asset or make a withdrawal, some or all of the proceeds may be treated as income in the year you sell the asset. This will likely depend on whether the payment is considered a capital gain for tax purposes.⁶⁶

Asset issues in public housing are sometimes quite complicated because they involve trusts and estate issues. You may want to seek the help of a lawyer if you need help figuring out what the rules mean for your situation.

10. If I pay for any utilities, does that affect my rent?

If you pay for some or all of your utilities, your rent will be affected. Utilities generally include electricity, gas, and oil but not telephone, cable, or internet. There are different rules for state and federal public housing. A housing authority cannot charge for water if you live in state public housing, but may be able to charge if you live in federal public housing, if there is a water submeter.⁶⁷ If you live in federal public housing, the housing authority may charge for water then reimburse you with a "utility allowance" as explained in this question below.

State public housing

If you live in **elderly/disabled** public housing, your rent will be the following:

- If all utilities are included in rent, your rent = 30% of *net income*
- If you pay some or all utilities, your rent = 25% of *net income*

If you live in **family** public housing, your rent will be the following:

- If all utilities are included in rent, your rent = 32% of *net income*
- If you pay some, but not all utilities, your rent = 30% of *net income*
- If you pay all utilities, your rent = 27% of *net income*.⁶⁸

Federal public housing

If you live in any kind of public housing (family or elderly/disabled), your rent is 30% of your *adjusted income* minus a *utility allowance* for any utilities you pay.⁶⁹

Each housing authority establishes its own utility allowance, based on a reasonable approximation of utility consumption. The housing authority must review these allowances every year.⁷⁰

If there is a utility rate change (including fuel) which results in a change of 10% or more from when utility allowances were last determined, your housing authority is required to update the utility allowance.⁷¹

Sometimes, tenants' apartments are not individually metered for utilities (and the tenant is not billed by the utility company), but housing authorities have what are called *checkmeters*. Checkmeters tell the housing authority what your utility use is. If your utility use is higher than the utility allowance, your housing authority can impose a surcharge (extra charge) for any utilities you use which are more than the utility allowance.

Even if you are not billed for utilities and there are no checkmeters for your apartment, a housing authority can impose a surcharge for utility use from tenant-owned major appliances, like freezers and air conditioners.⁷²

If you think that your utility allowance is too low or the housing authority's utility surcharge too high, you can request that the housing authority make the appropriate adjustment. Your request must be based on reasonable grounds, such as a special need for people who are elderly, ill, or have a disability or special factors affecting utility usage that are not within your control. For example, a person with a home dialysis unit will have higher electrical expenses than the average tenant, and should be able to get a higher allowance.

Use your most recent utility bills to establish your need for an adjustment. Ask your housing authority for information about the process by which an adjustment may be requested. When you first move in and when your housing authority gives you notice of utility allowances, it is required to give you notice of these procedures.⁷³

11. If I have no income, can I be charged rent?

Yes. Both federal and state public housing programs can charge *minimum rents* to households even if they have no income. For federal programs, the minimum rent can range from \$0 to \$50 a month.⁷⁴ For state housing programs, the minimum rent is \$5 a month.⁷⁵

If you do not have any income as defined in **Question 3**, a housing authority may look into how you pay for everyday necessities. Failing to report income can get you into trouble. All reported income, however, is not used to determine your rent. See **Question 4**.

For both federal and state public housing, if you are facing a *hardship*, you can ask the housing authority to *suspend* (temporarily stop) or *waive* (not charge) the minimum rent.⁷⁶ You do this by applying for what is called a *hardship exemption* or *waiver*. You can apply for a *hardship exemption* if you lose your income because your situation changed, such as loss of a job or death of a family member. You can also apply if paying the minimum rent would be a hardship for you. However, depending on your situation, you may later have to repay the amount that had been suspended.

There are two types of *hardship*: short-term and long-term. If the hardship is expected to last less than 90 days, you qualify for short-term hardship, and charges are *suspended* for the time being. You do not have to pay the minimum rent for the period of time that the suspension covers. When the short-term hardship expires, you can work out a payment plan to repay the amount you owe. If the hardship lasts more than 90 days, you qualify for a long-term hardship. The rent charges for the prior 90-day suspension period are waived, and the waiver continues until you have income. If you are granted a long-term hardship, you do not have to pay the minimum rent at all for the period of the hardship.

All housing authorities must give tenants notice about how to apply for the *hardship exemption*.⁷⁷ If you need to apply, contact your housing authority. If you apply for a hardship exemption, the housing authority cannot evict you for not paying the minimum rent.

12. If I work and my rent increased a lot, what can I do?

State public housing

If you live in **state public housing** and you or a member of your household begin to work while you are living in state public housing and you were previously not working, you may be eligible for a program that “freezes” your rent.

If you are eligible for a rent freeze, your rent will be frozen for a specific period of time at the amount it was when you were not working. In other words, any new income you earn from working will not be counted when calculating your rent. This benefit applies to both part-time and full-time work. If you think you qualify, use the sample rent freeze letter at the end of this booklet to request a rent freeze. This state public housing exclusion of increased income is called the *earned income exclusion*.⁷⁸

If you live in state public housing, you can get a rent freeze or *earned income exclusion* if:

- Before you got your job you received TAFDC (Transitional Aid to Families with Dependent Children), EAEDC (Emergency Aid to Elders, Disabled and Children), SSI (Supplemental Security Income), or SSDI (Social Security Disability Insurance) for 12 months in a row immediately prior to beginning your job; **and**
- Once you started working, your government cash benefit assistance decreased.

With this exclusion, for 12 months, all income related to your job cannot be counted towards your rent. In other words, your rent will stay the same. You can qualify for this benefit only once while living in state public housing.⁷⁹

If you or another household member are 62 years or older, working and living in state public housing, the housing authority must exclude a portion of your income when determining your rent. The portion that is excluded cannot exceed an amount that equals 20 hours per week at minimum wage (approximately \$300 per week).⁸⁰

Federal public housing

If you live in **federal public housing**, there was a phased-in rent freeze in effect until January 1, 2024.⁸¹ Households who qualified for that freeze prior

to January 1, 2024 may still benefit from it, but only until the end of 2025. Under legislation passed by Congress in 2016 and regulations that became effective in 2023, this income disregard was eliminated.

While federal public housing no longer has an earned income disregard, most increases in earned income for federal public housing that occur in between annual recertifications may be disregarded for rent-setting, depending on the housing authority's policies. But at the annual recertification the earned income may be counted. Check the *Admissions and Continued Occupancy Policy* and the lease for what income changes needs to be reported between annual recertifications.⁸²

Trouble Paying Rent

13. If I cannot afford my rent this month, what can I do?

Do not ignore the problem because late or incomplete rent can lead to eviction. See **Question 14**. Some approaches to consider include:

- **Talk to staff at the housing authority.** Sometimes housing authorities will let you work out a payment plan to get back on track. Let your housing authority know that you are having a hard time, but that you take your rent seriously and are working hard to fix the problem.
- **Figure out whether your rent was calculated correctly.** Figure out with housing authority staff whether your rent was calculated correctly. For example, you may be able to get a *hardship waiver* and not have to pay the *minimum rent* for a certain period of time. See **Question 11**. Or you may be eligible for a rent freeze. See **Question 12**. Or the housing authority may not have lowered your rent after you reported a decrease in income. See **Question 21**.
- **Look to your community.** If you are having a hard time paying your rent for a particular month, you should try to contact local and community agencies that might be able to help you. Charitable, religious, and community organizations sometimes have funds that help people who are having financial difficulties. Also check your city or town's human services department because it may have funds to help residents in the community. Resources are often one-time-only or on a first-come-first-served basis, so these sources should not be depended upon. Calling these organizations, even if you are not a member or affiliated with their group, can sometimes get you the help you need or a referral to an agency that can help.
- **Check your eligibility for government resources.** If you or a member of your household is a veteran, you may qualify for assistance to help you pay the unpaid rent. You should contact your local veterans association for more details and eligibility requirements. Also, the state sometimes has money in a program called *RAFT (Residential Assistance for Families in Transition)*. RAFT is designed to help tenants pay back rent and utility bills. You should check with your local nonprofit housing agency to see if there is any money in the RAFT account. Currently, for those in public housing, RAFT will only assist with 6 months of unpaid

rent (up to a maximum of \$7,000) and only if the tenant can verify a limited definition of “good cause” for falling behind, such as an increase in expenses during each of the months that rent was not paid.⁸³ To find the RAFT agency near you, go to:
www.masshousinginfo.org.

14. What if I pay my rent late?

State law allows a landlord to charge late fees if rent is more than 30 days overdue and the lease provides for the late fees.⁸⁴ A late fee, though, is not rent and late fees should not be lumped into any rent owed.⁸⁵ State and federal public housing regulations treat late fees differently.

State public housing

If you live in state public housing and your rent is more than 30 days late, a housing authority must charge a late fee of \$25.⁸⁶ (**Note:** If you pay only the next month's rent and not the late fee, the housing authority will likely apply it to the prior month and you will be charged another \$25 late fee. Late fees may accumulate quickly.) You may request that the housing authority *waive* (not charge) the late fee if there is a good reason that you were late and the late fee was for the period of time when you entered into a repayment agreement.⁸⁷

Federal public housing

If you live in federal public housing, late fees are permitted but not required.⁸⁸ These are not due until two weeks after you've been given written notice of the late fee, which is 30 days after rent is due, as required by state law. The notice must also advise you of your right to dispute the late fee under the housing authority grievance procedure.⁸⁹ You may request that the housing authority *waive* (not charge) the late fee, especially if the reason is something out of your control, like you are not receiving a benefit check in time. There should also be the opportunity to *waive* (not charge) the late fee if you are honoring a repayment plan or if you have requested a decrease to your rent and the housing authority has not yet said what is due.

Housing authorities are also required to separately break out rent charges from other charges, like late fees, and to give the opportunity to pay off rent owed during the 30-day federal notice period.⁹⁰

Income Changes

15. When must I report changes in my household's income?

Required yearly reporting

If you live in federal or state public housing, you are required to report your household's income and composition at least once a year. Some housing authorities calculate the yearly reporting date based on the anniversary of your move-in date. Others check incomes for all tenants in a particular development at the same time. **The information you give the housing authority must be accurate.**

For state public housing, this is called the annual *redetermination of rent*;⁹¹ for federal public housing this is called *reexamination*.⁹² Both state and federal public housing programs also refer to this as *recertification*.

If you live in federal public housing and are on a fixed income, your housing authority may conduct recertification **every 3 years** if you can verify that 90% or more of your income is from fixed sources, like pensions and Social Security.⁹³

If you live in state public housing in an elderly/disabled building, your housing authority may have been granted a waiver (permission from the state) to conduct recertification **every 2 years**.⁹⁴ Check your state annual plan to see whether a waiver is still in effect.

Additional or interim reporting

In both federal and state public housing, there are rules about reporting income increases between yearly rent recertifications. This is referred to as *interim reporting*.

Federal public housing

In **federal public housing**, each housing authority sets its own *interim reporting* policy for when you must report changes in your family's income and household composition. But this will change when HOTMA goes into effect.⁹⁵ The *interim reporting* policy must be spelled out in your lease.⁹⁶ Read your lease carefully. It will tell you about any deadlines for reporting income changes. Also check the housing authority's *Admissions and Continued Occupancy Policy*.

Even though you may not have to report increases in earned income, it's usually better to report these and then have the housing authority say that the increased income won't count.

If your income goes down, it is a good idea to report this immediately so that the housing authority can lower your rent as soon as possible.⁹⁷ See **Question 20**.

State public housing

In **state public housing**, you are required to report when there is any increase in your household's monthly *gross income* by 10% or more from what you last reported. Generally, you must report this by the 7th day of the month following the month in which the increase occurred.⁹⁸ Check your lease for the exact reporting requirements. (If the increase was anticipated in the prior calculation of your rent, you do not have to report it.)

Example: If in January you reported at the yearly rent *redetermination* that your household's gross income was \$15,000, and in May your household's income increased by \$1,500, you are required to report this to the housing authority by June 7th.

In addition, if you live in state public housing and you receive any *lump sum* payment of income later than it normally would have been paid (such as payment of past-due workers' compensation benefits, SSI or SSDI lump sums, or retroactive salary increases) and this income was not previously counted in determining your rent, you must report this within 7 days. The housing authority may impose a one-time *retroactive* rent charge on this amount and the tenant must pay that charge within 30 days.⁹⁹ Some housing authorities have obtained permission from the state housing agency to have different rules on *interim reporting*, so check your lease.¹⁰⁰

Flat rents

If you live in federal public housing and have chosen a *flat rent*, required *reexamination* of your family's income occurs once every 3 years, not once a year.¹⁰¹ You may, however, ask the housing authority to tell you what the *income-based rent* would be to see if you would do better with a flat rent or an income-based rent.¹⁰² The housing authority can ask you to give income information so they can make this calculation.¹⁰³

In addition, as noted in **Question 2**, flat rents are required to change as Section 8 FMRs change. So, it's possible that a tenant on a flat rent may face a rent increase even though income was unchanged. If this happens, check to see if the income-based rent would be better for you.

16. If my income goes up and I do not report this right away, can I get in trouble?

Maybe. It depends on what your lease says, what the basis for the increase was, and what was previously reported. Even though you have a yearly income check (*recertification*), you may have to report increases in your income throughout the year when they happen. See **Question 15** about *interim reporting*.

If you do not report the change in income as required by your lease, two things could happen (depending on what's in your lease):

- The housing authority could try to charge you for the back rent that could have been charged if there had been proper reporting.¹⁰⁴ This is sometimes called a *retroactive* rent increase. See **Question 18**. In state public housing, the housing authority may also try to charge you interest or a late payment penalty on the unpaid amount.¹⁰⁵
- The housing authority could try to evict you for failure to properly report your income. You may be able to prevent your eviction in court if the failure to properly report an income increase was for *good cause* or the amount of the unpaid rent is relatively small in comparison to the rent that normally would have been paid.¹⁰⁶

If you had a good reason for not reporting certain income, make sure you let the housing authority know this. For example, if you did not think that certain income counted, or you misunderstood your lease, or a family member did not tell you about a change in income, tell the housing authority this. If the failure was related to a disability or hospitalization, bring information showing this. Housing authorities have a duty to reasonably accommodate persons with disabilities. While it is likely you will have to pay back what is owed, the housing authority may agree to not charge a penalty or may agree to stop the eviction and instead give you a reasonable payment plan.

For federal public housing, all housing authorities must use a computer program operated by the U.S. Department of Housing and Urban Development (HUD) called the Enterprise Income Verification (EIV) system. Housing authorities use this computer system to verify income and employment information and identify families who have unreported income. Through EIV housing authorities can get the following information: new hire information, quarterly wage, employer information, quarterly unemployment compensation, monthly Social Security and Supplemental Security Income (SSI) benefits, and Medicare deductions.¹⁰⁷ HUD has issued guidance to

housing authorities that they should generally offer tenants reasonable repayment terms if the failure to report income wasn't knowing or intentional, and modify repayment terms so that they are affordable. In most instances, the tenant should not be paying more than 10% of income toward the repayment amount, so that the ongoing rent and repayment is capped at 40% of income.¹⁰⁸

State public housing also has a computerized system called Wage Match that allows housing authorities to verify income information for adult household members against the state Department of Revenue records.¹⁰⁹

17. What should I do if my income changes a lot during the year?

The housing authority sets your rent based on anticipated income.¹¹⁰ That means that it must make its best guess about what your income is going to be for the next 12 months.

Usually, the housing authority will rely on information from your employer about what you have earned to date and are likely to earn over the next 12 months. Sometimes it will calculate based on an average of recent paystubs, including overtime.

If you think the housing authority has incomplete information, or the information does not accurately show what your income is likely to be for the next year, you should try to give the housing authority better information. If you provide updated information to the housing authority and it still sets your rent higher than you think it should be based on the information you have submitted, you have the right to request a *grievance hearing*. For more about filing a grievance, see **Using Your Public Housing Grievance Procedure**, a guidebook available at www.MassLegalHelp.org/housing/grievances.

If you work only a certain number of months each year (a common situation with those who work in schools, for example), you have two options for rent:

- You can ask that your 10-month income be stretched over the 12-month period. This would result in a lower rent than would otherwise be the case in the months that you work, but a higher rent in the months you are not working; or
- You can ask to have your rent calculated for the 10-month period that you are employed, and then request a rent decrease for the months that you are not employed.

The same applies to changes in overtime or in hours of employment. If your rent was set initially based on certain assumptions about overtime or hours and you end up doing substantially less overtime or have your hours reduced, you should request a change in your rent. If, on the other hand, fluctuations in your hours or overtime were built into the initial rent calculation (the housing authority averaged out the information, and that average hasn't really changed), there would be no basis for an adjustment.

18. Can the housing authority retroactively increase my rent?

State public housing

If you live in state public housing, a housing authority can increase your rent *retroactively* (going back in time), but in only two circumstances:

- If you did not properly report your income, *deductions*, *exclusions*, or household composition as required by the lease, and the housing authority later discovers the mistake.¹¹¹
- If you did not complete your *recertification* on time, the housing authority can make a rent increase back to the time that the recertification would have taken effect. This applies to both the yearly recertification and any *interim* recertification required by the lease.¹¹²

If, on the other hand, you gave the housing authority the proper information in a timely manner, but the housing authority failed to process it, the rent increase can be effective only for a future date.

Federal public housing

If you live in federal public housing, there are no specific rules about whether rents can be increased *retroactively*.¹¹³ Until HOTMA is implemented, that policy is left up to each housing authority. The policy must be stated in your lease.

19. What kind of notice am I supposed to get about a rent increase?

State public housing

If you live in state public housing, the housing authority must give you at least 14 days written notice of a rent increase prior to the increase, and the rent increase must be effective on the first day of a month.¹¹⁴ This rule applies unless the housing authority has received permission from the Executive Office of Housing and Livable Communities (EOHLC) to adopt a different rule.

But a 14 day notice is not required, if you did not properly or timely report any income or income changes in the past, and the housing authority later discovers this error and corrects it. See **Question 18**.

Federal public housing

The federal rules leave this policy to each housing authority to set, and the policy must be in your lease.¹¹⁵

20. When can I ask for a decrease in rent?

As soon as you know of a change in your circumstances, let the housing authority know and ask to have your rent recalculated. For example, if you lost income or child support, or there was a change in deductible expenses listed in **Question 5** or a change in your family or immigration status that would reduce your pro-rated rent—let the housing authority know and ask to have your rent recalculated.¹¹⁶

To protect yourself, put your request in **writing** and include:

- Information about the change in your circumstances; for example, that your work time went down from 20 to 10 hours per week; and
- The month in which the income change happened.

Write in your request the date you are notifying the housing authority. This date is very important in terms of establishing when the decrease should happen.

If your property manager usually communicates with you over email, you can email the request to them and ask them to confirm they received it. Or you can write out your request and make a copy of your it for your records. Then go to

the housing authority office and give them your written request. Ask them to stamp or write the date that you are giving them the letter right on the letter. Then ask them to put it in your tenant file. Because you have put your request in writing and dated this letter (and kept a copy), it can be determined later when you first notified the housing authority of the change in your circumstances, even if you cannot provide third-party *verification* at the time.

If you live in federal public housing and are on a *flat rent*, the flat rent cannot be adjusted based on changes in your income. You can, however, ask to be switched to an *income-based rent* because of economic hardship. See **Question 2**.

If you are paying a *minimum rent*, you can ask for a *hardship waiver* if you are without income. See **Question 11**.

21. When should a rent decrease take effect?

If you did not report the income loss right away, the housing authority will usually have no obligation to make a rent adjustment for the time period before you informed them of the income loss. In some cases, however, where a disability is involved, the housing authority may be able to make what is called a *reasonable accommodation* and decrease the rent for the time before you told them about your income change.

If you reported your income loss immediately, the effective date of a rent decrease depends on whether you live in state or federal public housing.

State public housing

If you informed the housing authority immediately about a decrease in income, a rent decrease must become effective—at the latest—on the first day of the month after the housing authority received the information necessary to verify your change in income (called *verification*).¹¹⁷ The housing authority may wait until it receives adequate *verification* of your change in circumstances and what your likely new income will be before making the rent change.

Adequate verification could be, for instance, a layoff letter from your employer or a notice from the welfare office about a decrease in your cash assistance. Once the housing authority obtains adequate verification, it must make the rent change. The housing authority may make the rent decrease effective for an earlier date (the first day of the month following the decrease) if there is a good reason for a delay in providing adequate verification.¹¹⁸

Federal public housing

While each housing authority can set its own policy about when a rent decrease should become effective, federal regulations require that a housing authority act on a request within a reasonable time.¹¹⁹

After your notification to the housing authority, you should receive from the housing authority, at a minimum, a written notice stating the new rent, the effective date, and your right to request an explanation about how the rent was calculated. If you request an explanation, the housing authority should explain to you how the calculation was done, what was counted as income, and what *deductions* or *exclusions* were used. Some housing authorities include this information in the rent increase notice. You should also check the housing authority's *Admissions and Continued Occupancy Policy* and any rent collection policy for details.

Advocacy tip: If you and other tenants are involved in reviewing or commenting on housing authority policies, you may want to press for a policy where the rent decrease takes effect the first month after the change in circumstances is reported to the housing authority.¹²⁰

22. What if I told the housing authority that my income went down, but they did not lower my rent?

First go to the housing authority office and ask them why they did not lower your rent. They could be waiting for *verification* of your income. See **Question 21**.

If the housing authority does not lower your rent after you speak with them, you can file a *grievance* in writing with the housing authority, stating that you want a *hearing* on their failure to lower your rent. To do this, write a short letter asking for a grievance hearing and submit it to the housing authority's main office or the development's management office. The housing authority should grant you a hearing after they get your letter. You will get a letter telling you when and where the hearing is.

When you go to the hearing, bring proof of your income. Be prepared to show when your income dropped and, if possible, bring evidence of when you told the housing authority about the change in your income. Tell the grievance panel or hearing officer that the law requires the housing authority to lower your rent when your income drops.

For more about filing a grievance, see **Using Your Public Housing Grievance Procedure**, a guidebook available at www.MassLegalHelp.org/housing/grievances.

23. What papers do I need to prove my income?

The process of proving what your income is or what *deductions* you may be entitled to is called *verification*.¹²¹

As a tenant in public housing, you are required to provide **reasonable** and **necessary** documentation of your income and expenses. For example, for wages, interest, dividends, annuities, pensions, or other income, you may be asked to submit copies of your prior year's tax forms (including W-2 forms, W-2G forms, and 1099 forms.)

Both state and federal public housing programs may also require verification of income, assets, and expenses directly from others—"third parties"—such as employers.

Be prepared—the verification process can be slow.

Family Changes

24. When do I report changes in my family?

Reporting changes in your family is just like reporting income. You will go through a *recertification* check at least once a year, and you will likely have to report any changes throughout the year. Read your lease to find out what is required. If someone leaves your household and your rent is based in part on their income, you should report that right away so your rent can be decreased.

25. How can I add someone to my household?

You have the responsibility to inform your housing authority of any person you wish to add to your lease,¹²² and should make a request for the addition to the manager. It is always best to put your request in writing and keep a copy. Some housing authorities have a required application form. You must obtain approval from the housing authority for the addition of a person to your household.

Children

In general, if the person being added to the household is just born to a household member, or if a household member has adopted or obtained court-awarded custody of a young child, you will not need advance permission from the housing authority to have a minor live with you before official approval. The housing authority is likely to want the birth certificate, adoption order, or copy of the court order. If the child is young, there will probably not be any *screening*. If the child is a teenager, however, the housing authority may wish to do a criminal record check to be sure that the teenager has not been adjudicated as an adult for any crimes.

There may be situations where a child is added to the household through a process other than birth, adoption, or court-awarded custody, such as when the parent states in writing that another adult should care for the child. Such arrangements are protected by federal fair housing laws.¹²³ It is common for schools and medical providers to accept such documents. In many cases, housing authorities will accept such arrangements and allow the child to live with the family pending screening approval.

Adults

If the person you want to add to your lease is an adult, the housing authority will probably require that the person be *screened*, which could include a screening of criminal history, prior to permitting the person to join your household. The housing authority may also apply other rules it uses when admitting households with noncitizens to federal public housing. If the person you want to add to your lease is not approved, you should have the right to challenge this using the *grievance* procedure. For more information about screening and criminal history records and admissions rules related to noncitizens, see “Public and Subsidized Housing” at www.masslegalhelp.org/housing-apartments-shelter/public-subsidized-housing.

Under your lease with the housing authority, you have the right to have a guest stay with you for limited periods of time without advance approval of the housing authority. In **state** public housing, the limit is usually 21 days during any 12-month period, unless the housing authority has received approval for a different time period.¹²⁴ In **federal** public housing, each housing authority can set its own policy, as long as it is reasonable.¹²⁵

You can ask the housing authority to let your proposed new household member stay with you during the guest period while you make the written request for an addition. The housing authority might agree to extend the period if the request is still going through *screening*.

If your request to add the person to your lease has been denied, you can file a *grievance*.¹²⁶ You can also ask the housing authority to extend the time period for the person to stay while your grievance is pending.

If you lose the grievance, the housing authority will require that the proposed household member vacate the unit. Keep in mind that even if someone is related to you by marriage or blood, if that person has a criminal record, the housing authority may be able to refuse to allow them onto your lease. If you let the proposed new household member continue to live in the unit after your grievance has been deemed unsuccessful, the housing authority can terminate your tenancy because the person would be an unauthorized household member.

26. How do I remove someone from my lease?

In general, the head of household controls who lives in the public housing apartment and must submit a request to remove a household member from the lease. Often the housing authority will ask for proof that a family member lives somewhere else before removing that person from your lease. This kind of proof can be a copy of a new lease, a utility bill, or a rent receipt in the person's name.¹²⁷

Domestic violence, separation or divorce

Sometimes the head of household has engaged in domestic abuse toward other household members, or there is a divorce or separation. If the family members cannot reach an agreement about who stays and who leaves, a court may determine who gets to stay in the apartment.

A federal law called the Violence Against Women Act (VAWA) allows housing authorities to bifurcate (divide) a lease in federal public housing in order to evict or remove an abuser, while allowing the survivor to stay.¹²⁸ A housing authority may ask an individual to document or certify that they have survived domestic violence, dating violence, stalking, or sexual assault. Such certification may include: police or court records documenting incidents of violence; or a statement, under oath, from a victim service provider, attorney or medical professional that there have been one or more incidents of abuse.¹²⁹ The certification must be provided within 14 days of the housing authority's request, although this deadline may be extended by the housing authority.

A housing authority also has a duty to provide reasonable and appropriate assistance to household members in public housing who are survivors of domestic violence, including changing locks for those who have obtained abuse prevention orders.¹³⁰ State public housing regulations require *waiving* (not charging) the cost to change the locks.¹³¹

27. If my housing authority says I am overhoused, what can happen to my rent?

If you are living in an apartment with more bedrooms than the housing authority determines is appropriate for your household size, your housing authority can classify your household as *overhoused* and ask you to move to a smaller apartment. In **state** public housing, if you refuse to transfer to a smaller apartment of appropriate size offered by the housing authority, your rent can be increased to 150% of your usual rent.¹³² (See also **Question 2.**)

In addition, in either **state** or **federal** public housing, if your household has been classified as *overhoused* and refuses to transfer to a smaller apartment, this could be grounds for eviction. If you think you have *good cause* (good reason) not to move to the smaller apartment, you should file a *grievance*. Some reasons to challenge the transfer include:

- You are a veteran, surviving spouse of a veteran, or Gold Star Mother and allowed by state law to stay in your state public housing unit;¹³³
- You need to remain in your current apartment due to a disability or you require additional space because of medically required equipment;
- The apartment you are offered is dangerous, may put you at risk from a former abuser, or is not up to building or health codes;
- You cannot climb the stairs or the apartment does not otherwise meet your needs for accessibility (for example, you have a wheelchair and the apartment is not wheelchair accessible); or
- The apartment is otherwise not appropriate.

For more information about how to file a grievance, see **Using Your Public Housing Grievance Procedure**, a guidebook available at www.MassLegalHelp.org/housing/grievances.

28. Are there rules about being over-income for continued occupancy in public housing?

State public housing

Yes. For **state public housing**, if 30% (for elderly/disabled public housing) or 32% (for family public housing) of a household's income is greater than the Section 8 Fair Market Rent (FMR) for the area for a comparably sized unit, the family is considered over-income for public housing. The family may be given a hardship exemption for up to 6 months to find other unsubsidized housing.¹³⁴ See **Question 11**.

Federal public housing

For **federal public housing**, if a family's income is greater than 120% of the Area Median Income (AMI) for 2 years in a row the family will be over-income and no longer have full rent and eviction protections.

While it is up to each housing authority to determine what its policy will be, once 2 years has passed, a housing authority could proceed with eviction of an over-income family after 6 months. Or a housing authority could charge the family rent whichever is greater - either the Section 8 Fair Market Rent (FMR) or the amount of monthly subsidy for the unit as explained in its *Admissions and Continued Occupancy Policy*.

If a family is only over-income for the first recertification but not the second, there is no negative action. Action only occurs where there are 2 consecutive findings of being over-income.¹³⁵

Mixed Finance Housing

29. What is Mixed Finance housing?

A housing authority may choose to redevelop or rehabilitate a public housing site through a number of different programs. These programs are collectively referred to as “Mixed Finance” housing because they mix different forms of financing. Mixed financing can be in addition to or in replacement of traditional public housing operating and capital subsidies.

Since 2012, the Rental Assistance Demonstration (RAD) program authorized by Congress, has become a program where federal public housing is getting redeveloped.¹³⁶ Many of these programs rely on the use of federal or state Low Income Housing Tax Credits (LIHTC) that brings in private investors and the use of Section 8 project-based subsidies. These programs also result in public-private partnerships in which the property may be operated in the future by an entity other than the housing authority although in many cases the housing authority still controls the land.

Mixed Finance housing, done properly, can provide badly needed capital funding for the long-term preservation of the housing. Mixed Finance housing also has use restrictions that keep apartments affordable for low-income people for a certain period of time (in some cases forever) and tenant protections regarding rent, grievances, evictions, and tenant participation.

In 2024, Massachusetts passed a new law which generally guarantees that existing tenant protections in public housing will be carried over into Mixed Finance housing. This includes rent rules, lease terms, limitations on eviction, right to return to the original unit or development, grievance rights, resident participation, preference in hiring and privacy rights. Sometimes the funding sources and subsidy programs needed to pay for the redevelopment have different rules and these rules may require changes in tenant protections. Residents are to be given an opportunity to review and comment on any such changes before they are made.¹³⁷ For more information go Mass Union’s website at: <https://massunion.org/redevelopment/>.

Residents and resident organizations should get involved in any redevelopment as early as possible to make sure that it will work for them. Residents should negotiate with developers and the housing authority that they receive the technical assistance they need to review and understand proposals and complicated legal documents and financing.¹³⁸ Residents should ask tough questions about options and relocation. They should get guarantees in writing BEFORE the redevelopment and get guarantees about their rights and how the development will be operated AFTER the redevelopment.

30. How are rent rules different for Rental Assistance Demonstration (RAD) than for Public Housing?

The Rental Assistance Demonstration (RAD) was authorized by Congress in 2012 to preserve affordable and public housing. Nationwide public housing needs tens of billions of dollars in repairs.¹³⁹ RAD provides funding to stabilize, rehabilitate and replace properties.

Under RAD, housing authorities convert public housing to Section 8 by shifting public housing operating and capital funds into long-term Section 8 contracts. Housing authorities replace public housing funding with either funding from the Project-Based Voucher (PBV) program or a Project-Based Rental Assistance (PBRA) program.¹⁴⁰

All RAD proposals must go through several stages of resident review and comment and HUD assessment. Under RAD, housing authorities are required by HUD to guarantee certain public housing rights, such as one-for-one replacement, the right to return, no rescreeing of existing tenants, grievance rights, good cause eviction protections, tenant participation rights, and most rent rules.

For RAD, there are a few federal public housing rent rules which are lost:

- There is no ability to have “flat rents.” Under RAD rent is calculated at 30% of income. If you paid a flat rent in public housing and your rent goes up because of RAD, there is a 5-year phase in period.
- The housing authority may establish discretionary rent deductions for Section 8 vouchers, as it could with federal public housing, but they must show that this will not increase the cost of the vouchers.¹⁴¹
- For any tenants with pro-rated rent because of mixed citizen status, Section 8 pro-ratio rent is significantly higher than for federal public housing.
- As with federal public housing, if tenants pay utilities, there are utility allowances for RAD, and they should be adjusted to reflect changes in rates. The PBV program, like the regular Section 8 voucher program, provides that a higher utility allowance can be sought as a reasonable accommodation for a person with disabilities.¹⁴²

For a discussion of how the different programs affect continued eligibility for over-income families, see **Question 32**, below.

31. Does recertification work differently for Mixed Finance than for Public Housing?

Yes, but how it works depends on the nature of the subsidies and what other subsidies may be used for the Mixed Finance site.

- For the Section 8 Project-Based Voucher (PBV) program, recertification is done by the local housing authority in the same way that it's done for regular Section 8 voucher participants. Normally this would be done at the central office (or on-line where that is an option). However, residents could talk with the housing authority to see if any special arrangements may be appropriate. For example, the housing authority may be continuing to operate an elderly/disabled site through a closely affiliated agency and would be willing to have its Section 8 staff periodically go to the site to do recertifications to avoid hardship.
- For the Section 8 Project-Based Rental Assistance (PBRA), recertification is done by the owner usually on site.

The owner may have gotten other funding, such as through the Low-Income Housing Tax Credit (LIHTC) program, HOME, or other sources, which requires that it also conduct regular reviews of household income and composition.¹⁴³ So residents may have to go to two locations to recertify.

There may also be different verification requirements. For example, the housing authority may require a certain number of pay stubs to verify income, while the owner may require something else for LIHTC or HOME.

If the tenant is only reporting an interim change, they should check if this needs to be reported to both locations or to only one. If a resident has a disability which would make it difficult to meet these requirements, they can request a reasonable accommodation, such as whether a family member can accompany here to the appointment, or documents can be accepted remotely, or if a home visit can be arranged.

Stay on top of recertification notices

It is important that the tenant stay on top of any notices from the subsidy agency (usually the housing authority) about recertification. If the tenant misses an appointment, does not respond to a request for information, or fails to follow through on all of the documents requested, the housing authority often will start the process of subsidy termination.¹⁴⁴ The tenant must then

make sure to request an informal hearing within any deadline set by the housing authority. Otherwise, there is the risk that the Section 8 or MRVP may be terminated and it may not be possible to get it reinstated. In addition, if the Mixed Finance owner is not receiving subsidy because it has terminated, the owner will likely file a court eviction.

32. Is there a different way to dispute rent or eligibility for Mixed Finance than for Public Housing?

Yes. It depends on who does the recertification of income for the housing subsidy. If the recertification is done by Section 8 or MRVP staff at a housing authority, then you would use the *informal hearing process* (for Section 8) or the *grievance procedure* (for MRVP) with that housing authority.¹⁴⁵

If, on the other hand, recertification is done for the subsidy by the owner at the development, such as through PBRA, then you'd have to use the PBRA dispute process. Often there have been real problems in the past with multifamily owners' misuse of the PBRA process. Since, under RAD, public housing grievance rights are to be retained, there is a good argument to ask that before the site is redeveloped, that there be a good Mixed Finance Grievance Procedure set up that will work for residents and which preserves some role for housing authority oversight and involvement and judicial review.

Where the site will continue to have some public housing units, it may be easy to establish a blended procedure that works the same for all units (or at least for all units that have some kind of deep subsidy and income-based rents).

33. Are there some “affordable units” in Mixed Finance housing that may not get the benefit of public housing or Section 8/MRVP rent rules?

Yes, there may be. While state or federal *Low-Income Housing Tax Credit (LIHTC)* funding may be coupled with public housing subsidies, Section 8 PBV or PBRA or MRVP assistance, it may also be used for “affordable units” at a redeveloped site. If the “affordable unit” does not have any other subsidy, it may often not be affordable to those of extremely low income (30% of area median income or below).

For example, while tax credit units are set aside for those with incomes at or below 50-60% of area median income, the tax credit rent for the unit may not be affordable to the tenant if they later lose income, since the rent does not adjust based on income. Tenants with lower incomes may be able to afford these units if they obtain a regular HCVP Section 8 voucher from a local housing authority. Remember, however, their situation may be different than other tenants with Section 8 PBV or PBRA assistance, particularly if the family size changes.

Tenants in mixed finance developments may try to get similar policies from the housing authority and owner that would benefit LIHTC tenants and tenants in other affordable units. This could include:

- Having a local tenant organization or resident council open to all tenants including all “affordable units;”
- Getting tenant participation funding based on the full count of “affordable units,” or the pre-existing public housing inventory, rather than just the post-conversion public housing units;¹⁴⁶
- Having a grievance/dispute resolution policy available to all “affordable unit” residents;
- Setting up transfer policies so that LIHTC tenants who need subsidy could apply for a transfer within the property.

However, it may be that the tenant organization is only able to obtain such tenant participation and grievance protections for “replacement” units where PBV or MRVP units are replacing public housing units lost in the development, and not for additional “affordable units” that may be created at the site.

In 2024, the Legislature mandated that in any public housing redevelopment, public housing tenant protections should generally be continued, unless specific funding or program requirements mandated changes. Any such changes should be the subject of negotiation with tenants and their tenant organizations.¹⁴⁷

Sample Letter

34. Sample Rent Freeze Letter: State Public Housing

Use this letter as a guide. Check all boxes that apply to you and keep a copy for your records.

Date:

Dear Housing Authority Director/Manager:

I am writing to request a rent redetermination. I believe that I may be eligible for the “earned income exclusion” because I recently started working and my income increased.

I live in state public housing, have an MRVP or AHVP, and before I began my job I received for 12 consecutive months:

- ☐ TAFDC
- ☐ EAEDC
- ☐ SSI, or
- ☐ SSDI.

After my job began, my cash assistance benefits decreased.

I believe that my entire increase in income should not be counted towards rent for 12 months after I began working, according to the EOHLC regulation at 760 C.M.R. § 6.05(3)(i) (for public housing and AHVP) at 760 C.M.R. § 49.05(c)(10) (for MRVP).

I would appreciate the Housing Authority’s determining my correct rent and refunding any amount of rent I have overpaid. Please let me know what additional information or documentation you need from me to process this request. Please let me know in writing within 10 days of the date of this letter what you plan to do to address my request.

Thank you for your prompt attention to this matter.

Sincerely,

Name: _____

Address: _____

Phone (Day): _____

Phone (Evening): _____

Glossary

Adjusted income: The amount of income that is used to determine rent for federal housing programs, if the rent is *income-based*. The housing program figures adjusted income by first looking at the total anticipated income for a household, and then subtracting certain *deductions* and expenses. What is left is adjusted income, and rent will be 30% of that amount.

Admissions and Continued Occupancy Policy (ACOP): A document that outlines a housing authority's rules and procedures for admissions and occupancy. It covers eligibility, tenant selection criteria, waitlist management, rent determination, transfer policies, and other occupancy guidelines.

Annual income: The term used in federal housing programs to describe the total amount of anticipated income coming into a household. Once a federal program determines the annual income, it will subtract certain *deductions* and expenses and come up with an *adjusted income* amount.

Area Median Income (AMI): Figures set by U.S. Department of Housing and Urban Development each year for different communities across the country, showing what the median household income is in that area. Certain percentages of the AMI are used to establish eligibility for initial and continued occupancy of public and assisted housing. The figures are generally published by the federal government in the spring of each year.

Asset: Property (such as bank accounts, stocks, and capital investments) to which a value can be assigned. Federal rules have a specific definition of "net family assets." See HUD rule 24 C.F.R. § 5.603.

Capital Gain: The difference between what you paid for an investment and what received when you sold it. If you sold an investment for more than what you paid for it, then you have a capital gain. If you sold it for less than what you paid, then you have a capital loss.

Checkmeter: A device owned and installed by the housing authority that measures the electricity or gas consumed by a dwelling unit. Checkmeters are installed in addition to the master meter, which is owned by the utility and measures total building consumption. The housing authority is responsible for paying the bill to the utility. Tenants may have to pay the housing authority a surcharge if the checkmeter for their unit shows utility use higher than the *utility allowance*.

Deduction: An amount of money that is subtracted from a household's total anticipated income before calculating rent. Deductions can be fixed amounts

(for example, \$480 per dependent) or fluctuating depending on particular household expenses (for example, unreimbursed medical expenses).

Discretionary: Something that is not required, but that is optional.

Earned income exclusion: A type of *exclusion* for state public housing residents who had previously received public benefits or were previously unemployed and then began working.

Eligible noncitizen: A person who is not a U.S. citizen but is an immigrant who belongs to a group which is allowed, under federal law, to apply to all federal housing programs. Allowable groups include permanent residents, asylees and refugees.

Executive Office of Housing and Livable Communities (EOHLC): The state agency that oversees housing authorities and state public housing. Formerly known as the Department of Housing and Community Development (DHCD).

Exclusion: Family income which a housing authority must ignore for purposes of calculating rent. For example, the value of food stamps or a tax refund cannot be counted towards your rent.

Fair Market Rent (FMR): A figure set by the U.S. Department of Housing and Urban Development and revised each year for communities around the country, setting rent levels on which HUD and housing authorities will base Section 8 subsidies. The published FMR may also affect eligibility rules for other programs. They are usually updated every 10/1. Find the FMRs at HUD's website here: <https://www.huduser.gov/portal/datasets/fmr.html>

Flat rent: The standard maximum rent amount set by a housing authority for an apartment, based on bedroom size, condition, and location, that federal public housing programs must offer to tenants as an alternative to *income-based rents*.

Good cause: A legally sufficient reason. For example, a housing authority must have good cause to evict someone; or, a tenant may have good cause to transfer to another apartment if a household member has a compelling and documented physical impairment.

Grievance: A grievance is a complaint filed to ask for a *hearing* about an injury, injustice, or wrong.

Grievance hearing: A process following filing of a complaint in which a hearing officer or grievance panel listens to parties, considers evidence, and makes a decision or ruling. Before going to the hearing stage, the grievance process begins with an informal conference or informal hearing, which is a

meeting that allows parties to try and convince the housing authority that a decision or proposed action is incorrect. Tenants have a right to have an advocate or other person with them during both an informal conference and a grievance hearing.

Gross income: The term used in state housing programs to describe the total amount of anticipated income coming into the household. Once a state program determines the gross income, it will account for certain *deductions* and expenses and come up with the *net income* amount on which rent is based.

Hardship: A difficult or adverse situation for a tenant household (for example, loss of a family member).

Hardship exemption: If a family qualifies for a hardship exemption it will not have to pay a *minimum rent*, but can pay less than the minimum down to \$0.

Hearing: See *grievance hearing*.

HOTMA: Housing Opportunity Through Modernization Act. HOTMA made major changes to how rents are set in federal public housing and Section 8, but as of the date of this booklet, HUD has not yet implemented all of those changes.

Household: People listed on your lease and authorized by the housing authority to live in your apartment.

Housing Choice Voucher Program (HCVP): The regular, federal Section 8 voucher program. Under this program, tenants are given a voucher to find an apartment in the private market, and have a limited time to secure such a unit. Private owners may charge a rent which is more than 30% of income (initially units can't be approved if the tenant rent (rent plus allowance for tenant-paid utilities) would exceed 40% of income, but there is no limit on lease renewal). Owners may evict for "no fault" other good cause reasons after the first year of the lease. The owner may ask for a security deposit which is equal to the whole contract rent, and not just the tenant's share. If the family size changes, the housing authority may have to reduce the subsidy at the annual review.

HUD: The federal U.S. Department of Housing and Urban Development, which is in charge of federal public housing and the federal Section 8 programs.

Imputed welfare income: Welfare income not received, but still counted by the housing authority where a tenant's welfare grant was sanctioned and reduced for certain reasons.

Income-based rent: Rent figured as a percentage of a household's anticipated yearly income. In public housing programs, the rent for each unit is almost always determined as a percentage of the income of the family who lives there. Therefore, rents for similar units in a development could be different, depending on who lives in each unit.

Informal hearing process: For the Section 8 voucher and PBV program, the process for resolving disputes with program participants, as outlined in 24 C.F.R. § 982.555. While this often focuses on termination of Section 8 assistance, it is also the process to dispute rent/income decisions associated with a Section 8 subsidy. Usually hearings are conducted by a hearing officer, rather than by a hearing panel.

Interim reporting: In public housing programs, the rules concerning when a household must report a change in family or income between the yearly *recertifications*.

Low Income Housing Tax Credits (LIHTC): Tax breaks provided by either the state or federal government to assist with the preservation or production of affordable housing. LIHTC is often a component of mixed finance redevelopment of public housing, and brings with it another set of rules on eligibility and verification requirements. Tenants may have to certify eligibility with both the housing authority and the owner if there are tax credits. In a few instances, tax credit rules may affect the eligibility of a tenant. Some of the "affordable units" at a site may only have tax credit funding. Very low income tenants may not be able to afford tax credit units without a Section 8 or MRVP voucher.

Lump sum: One-time payment.

Massachusetts Rental Voucher Program (MRVP): A Massachusetts state rental assistance program which is similar to Section 8 in some ways, and which can be either a project-based and tenant-based subsidy. Usually tenants' rents are higher than with Section 8, and the amount of subsidy that is paid to the owner is less. MRVP subsidies can only be used within Massachusetts.

Minimum rent: In public housing, the amount of rent a public housing authority is allowed to charge a household even if there is no income. In federal public housing, the range is between \$0 and \$50 a month, depending on the housing authority and the program. In state public housing, minimum rent is \$5. A household can, in many circumstances, avoid the minimum rent by applying for a *hardship exemption*.

Mixed finance: Using a variety of financing sources to redevelop or rehabilitate public housing, including the use of state or federal Low Income Housing Tax Credits, Section 8 or Mass. Rental Voucher Program subsidies,

the Rental Assistance Demonstration (RAD), HOPE VI, Choice Neighborhoods, or other programs.

Net income: The amount of income that is used to determine rent for state housing programs if the rent is *income-based*. The housing program figures net income by first looking at the total anticipated income for a household, and then subtracting certain *deductions* and expenses. What is left is net income, and rent will be a percentage of that amount.

Overhoused: Where a family is living in a unit designed for a larger family.

Over-income: Affordable housing programs have many different rules about when a family may be considered over-income for subsidy or regular rent protections, as well as whether, when family circumstances change, an over-income family can still get affordable housing.

Project Based Rental Assistance (PBRA): A federal Section 8 program under which subsidy assistance is provided to a building. The subsidy is administered by the owner and the owner does recertification. PBRA tenants can only be evicted for program or lease violations and have rent limited to 30% of income. For the RAD program, after 2 years, RAD PBRA tenants in good standing may request relocation vouchers if they wish.

Project Based Vouchers (PBV): A federal Section 8 program under which subsidy assistance is provided to a building. The subsidy is administered through a housing authority and recertification is done there. PBV tenants can only be evicted for program or lease violations and have rents limited to 30% of income. After one year, tenants in good standing may request relocation vouchers if they wish.

Pro-rated rent: The rent amount determined according to specified calculations by a federal public housing program for a household with some undocumented immigrants. The undocumented immigrants can reside in the program's housing, but the federal housing program will adjust the subsidy to cover only the citizens or *eligible noncitizens*. Generally, the calculation of the benefit amount is based on the proportion of eligible individuals to ineligible individuals. As a result, these "mixed" households will pay more than the standard 30% of income for rent.

RAFT or Residential Assistance for Families in Transition: A state-funded program to help low-income families avoid homelessness. RAFT helps pay for security deposits, back rent, or utility arrearages.

Reasonable Accommodation: In the context of housing, a reasonable accommodation is a change or modification that a housing authority or landlord makes in a rule, policy, practice, service, or physical space so that a

person with a disability may make full use of his or her home or take full advantage of the housing program. The change is considered reasonable if it does not create an unnecessary burden for the housing authority and when it does not require the housing authority to change its program.

Recertification: The general term used by all housing authorities to describe the yearly procedure by which a housing authority checks a household's composition and income in order to determine whether the household's portion of the rent needs to be recalculated.

Redetermination: The term used in state public housing to describe the *recertification* process.

Reexamination: The term used in federal public housing to describe the *recertification* process.

Rental Assistance Demonstration (RAD): A federal mixed finance public housing redevelopment program where public housing operating and capital funds are replaced by a form of Section 8 assistance as approved by HUD. Public housing which is redeveloped through RAD may have Project-Based Vouchers (PBVs) or Project-Based Rental Assistance (PBRA). Many public housing protections carry over to RAD, including most rent rules, eviction protections, long-term use restrictions, grievance rights, and tenant participation requirements.

Retroactive: Referring to action applied to a past time. For example, a housing authority is allowed in certain circumstances to go back and charge you additional rent for months that have already passed. Retroactive rents are usually imposed only if the tenant tries to hide income or does not cooperate with the *recertification* process.

Sanctioned: Penalized. For example, if someone receiving welfare fails to meet work requirements or violates other parts of a state's welfare policy, penalties are imposed.

Screening: The process of reviewing records and references to determine if someone will be a good tenant.

Self-sufficiency incentive: A type of *exclusion* for federal public housing residents who had received public benefits or were previously unemployed and began working. This was eliminated as of January 1, 2024, although residents who qualified for it prior to that date could continue to get the benefit of the balance of the exclusion period.

Stipend: In general, a stipend is a small regular amount of money paid to tenant for a specific purpose. For example, a tenant may get a stipend for

being on the board of a local tenant organization or being a commissioner on the housing authority's board. There are also educational stipends. It is important to check the specific definition of stipend depending on the program because definitions are different.

Suspend: To temporarily place on hold. In the case of hardship exemptions requested from minimum rent, a request made during the first 90 days of hardship is one to *suspend* the minimum rent, and to not proceed with adverse action like a non-payment eviction. However, if the hardship ends in 90 days or less, the minimum rent charges remain, but must be paid back on reasonable terms. If, on the other hand, the hardship lasts more than 90 days, this would qualify for a waiver (cancellation) of all of the minimum rent charges, retroactively and until the hardship ends.

Utility allowance: The amount of money that a housing authority will deduct from rent where a federal public housing tenant pays for all or some utilities (but not telephone, cable TV, or internet). The allowance is an amount that is not based on the tenant's actual utility consumption, but a figure that the housing authority thinks is reasonable consumption level for an energy-conservative household.

Verification: Written proof. In public housing, the process where the housing authority checks the information given by the tenant about income and family composition. This includes asking the tenants to provide certain documentation and seeking information from outside sources (such as employers). The documents themselves are referred to as verifications.

Waive: To not apply a rule because of a special circumstance.

Waiver: Permission, usually from an agency, not to follow certain rules.

Endnotes

- ¹ For pre-HOTMA regulations on rent setting which, until HOTMA is implemented, are currently in effect, see 24 C.F.R. § 5.609 et seq. (April 1, 2023) available at: <https://www.masslegalservices.org/system/files/library/2023%20CFR%20Rent%20Rules%20Pre-HOTMA.pdf>.

For final HOTMA regulations on rent setting, which include HOTMA changes that are not yet in effect, see 24 C.F.R. § 5.601 et seq., (Feb. 14, 2023) available at: <https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-F/section-5.601>.
- ² G.L. c. 121B, § 32; Elderly/handicapped: G.L. c. 121B, § 40(e); 760 C.M.R. § 6.04(1)(a); Family housing: 760 C.M.R. § 6.04(1)(b).
- ³ 42 U.S.C. § 1437a(a)(1).
- ⁴ 42 U.S.C. § 1437a(a)(1); 24 C.F.R. § 5.628(a).
- ⁵ The housing authorities in Cambridge, Holyoke, Brockton, Medford, and Watertown have different rent formulas for their federal housing programs under a demonstration program called “Moving to Work.”
- ⁶ 42 U.S.C. § 1437a(a)(2)(B)(i); 24 C.F.R. § 960.253(b).
- ⁷ 42 U.S.C. § 1437a(a)(2)(C); 24 C.F.R. § 960.253(f). The housing authority must adopt written policies for determining when payment of flat rent is a financial hardship. Such policies must provide that financial hardship include the following situations: (1) the family has experienced a decrease in income because of change in circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance; (2) the family has experienced an increase in expenses because of changed circumstances for medical costs, child care, transportation, education, or similar items; and (3) such other situations as determined by the housing authority.
- ⁸ See HUD Public & Indian Housing (PIH) Notice 2017-23, issued Nov. 30, 2017 at: www.hud.gov/sites/dfiles/PIH/documents/PIH-2017-23.pdf
- ⁹ Pro-rated rent is based on the percentage of the total household income, percentage of household members who are citizens or *eligible noncitizens*, and the housing authority’s flat rent. See 24 C.F.R. § 5.520. For definition of eligible noncitizen, see 42 U.S.C. § 1436a.
- ¹⁰ This pro-rated rent is based on the percentage of the subsidy assistance provided for household members who are citizens or eligible noncitizens. See 24 C.F.R. § 5.520.
- ¹¹ 42 U.S.C. 1437j(d-g); 24 C.F.R. § 5.615.

-
- ¹² G.L. c. 121B, § 32; 760 C.M.R. § 6.04(1)(e).
- ¹³ G.L. c. 121B, § 32; 760 C.M.R. § 6.04(1)(c). Per 760 C.M.R. § 6.03, overhoused means a tenant household that the housing authority has determined, based upon the composition of the household, to be occupying a unit consisting of more bedrooms than is appropriate for the household size.
- ¹⁴ G.L. c. 121B, § 32; 760 C.M.R. § 6.04(1)(c).
- ¹⁵ 760 C.M.R. § 6.05(2).
- ¹⁶ 24 C.F.R. § 5.609; see generally HUD’s Public Housing Occupancy Guidebook, Chapter 10. The Guidebook also includes worksheets and forms that housing authorities can use to calculate rent and verify income. You can find this Guidebook on HUD’s website at: https://www.hud.gov/sites/documents/doc_10760.pdf
- ¹⁷ **State:** 760 C.M.R. § 6.05(2)(b); **Federal:** 24 C.F.R. § 5.609(b)(28), which provides for the exclusion of gross business income and a definition of countable net business income.
- ¹⁸ **State:** 760 C.M.R. § 6.05(2)(e); **Federal: Pre-HOTMA:** 24 C.F.R. § 5.609(b)(4), (c)(14); **Final HOTMA:** 24 C.F.R. § 5.609(b)(16).
- ¹⁹ Federal and state public housing programs have different definitions of “regular gifts” and “contributions.” **State:** 760 C.M.R. § 6.05(2)(f) provides that contributions or gifts received from non-household members that are more than \$5,000 total (in the aggregate) in a 12-month period **must be included**, provided that only the amount of the contributions or gifts that exceeds \$5,000 shall be included. **Federal: Pre-HOTMA:** 24 C.F.R. § 5.609(b)(7); **Final HOTMA:** 24 C.F.R. § 5.609(b)(24)(v) provides in the definition of “non-recurring income,” which is income that will not be repeated in the coming year based, that gifts for holidays, birthdays, or other significant life events or milestones **are not included**. But, in federal public housing, if someone who is not part of the household pays the telephone bill every month, that would be considered a regular contribution and would be included in the rent calculation.
- ²⁰ **State gross income exclusions:** 760 C.M.R. § 6.05(3); **Federal annual income exclusions:** 42 U.S.C. § 1437a(b)(4)(B); **Pre-HOTMA:** 24 C.F.R. § 5.609(c); **Final HOTMA:** 24 C.F.R. § 5.609(b); 89 Fed. Reg. 6126 (January 31, 2024).
- ²¹ 42 U.S.C. § 8624(f)(1) which states home energy assistance payments or allowances shall not be considered income for any purposes under federal or state law. Also see, Federally Mandated Exclusions from Income at 89 Fed. Reg. 6126 (January 31, 2024).

-
- ²² **State:** 760 C.M.R. § 6.05(3)(b). **Federal:** 42 U.S.C. § 1437a(b)(5)(D); **Pre-HOTMA:** 24 C.F.R. § 5.609(c)(4); **Final HOTMA:** 24 C.F.R. § 5.609(b)(6).
- ²³ 760 CMR 6.05(3)(h).
- ²⁴ Any money you make or receive from a training program approved by EOHLC or sponsored or administered by a government agency, which is more than the amount of money equal to 1.5 times the minimum wage for 37.5 hours per week is not excluded. This exclusion may only be claimed for up to two years. 760 CMR 6.05(3)(j).
- ²⁵ See 760 CMR 6.05(3)(k). Students who are half-time or more can exclude their wages as long as they remain half-time or more, but their income *will* start counting once they’ve been students for twice the time normally required for full-time students to complete their course of study. You can try extend this income exclusion for up to two years with verification from the student’s school. See the definition of “Half-time Student” at 760 CMR 6.03.
- ²⁶ If the tenant or a household member is 62 or older is working or recently worked but lost a job, that person can ask the housing authority NOT to include the following sources of income: Unemployment Insurance, Workers Compensation, and Short and Long Term Disability. This does NOT apply to Social Security Disability Insurance. 760 CMR 6.05(3)(p). Find the current Massachusetts minimum wage and other related information at <https://www.mass.gov/info-details/massachusetts-law-about-minimum-wage>.
- ²⁷ 760 CMR 6.05(3)(s), referencing the Brave Act in G.L. c. 115, § 6B.
- ²⁸ 760 CMR 6.05(3)(r), cross-referencing 26 U.S.C. § 529A.
- ²⁹ 760 CMR 6.05(3)(a).
- ³⁰ See 24 C.F.R. 5.609(b)(12)(iii). See also 24 C.F.R. 964.150(b) which provides that use of tenant participation funds for stipends for officers of a resident council, as agreed to by the housing authority and the resident council, are not counted as income for purposes of determining rent.
- ³¹ HUD PIH Notice 2005-37 provided guidance on income calculation regarding the Medicare Prescription Drug Plan – Part D Program, but in 2019, HUD identified this notice as one that should no longer be in effect or was deemed unnecessary and obsolete.
See <https://www.federalregister.gov/documents/2020/11/03/2020-23986/removal-and-archiving-of-additional-obsolete-and-superseded-guidance-documents>.
- ³² 42 U.S.C. § 1437a(b)(5); 24 C.F.R. § 5.611(b).

-
- ³³ To see the HOTMA regulations on rent setting, which include HOTMA changes that are not yet in effect, see 24 C.F.R. § 5.601 et seq., (Feb. 14, 2023) available at: <https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-F/section-5.601>. See also definitions for rent setting at 24 C.F.R. § 5.603 (Feb. 28, 2023) at: <https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-F/section-5.603>, and definition of annual income under final HOTMA at 24 C.F.R. § 5.609 (Feb 14, 2023) at: <https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-F/subject-group-ECFR174c6349abd095d>
- To see the pre-HOTMA regulations on rent setting which, until HOTMA is implemented, are currently in effect, see 24 C.F.R. § 5.601 et seq. (April 1, 2023) available at: <https://www.masslegalservices.org/system/files/library/2023%20CFR%20Rent%20Rules%20Pre-HOTMA.pdf>.
- ³⁴ 42 U.S.C. § 1437a(b)(5); 24 C.F.R. § 5.611. In July 2016, Congress passed the Housing Opportunities through Modernization Act (HOTMA), Public Law 114-201, which authorized a number of changes to HUD rent and eligibility rules for federally assisted public housing and Section 8 vouchers. For a good summary of major changes made by HOTMA see memo from the National Housing Law Project at <https://www.nhlp.org/wp-content/uploads/2018/02/NHLP-Overview-and-Analysis-of-HOTMA.pdf>.
- ³⁵ When HOTMA takes effect, the elderly/disabled deduction will increase from \$400 to at least \$525 and may be adjusted annually by HUD.
- ³⁶ When HOTMA takes effect, this deduction may be adjusted annually by HUD. 42 U.S.C. 1437a(b)(5)(B) and 24 C.F.R. 5.611(a)(1).
- ³⁷ 42 USC 1437a(b)(5)(D)(i) and 24 C.F.R. 5.611(a)(3)(i). The 3% will change to an amount over 10% when HOTMA takes effect. There will be a phase-in for current residents. For those who were already in public housing at the time the housing authority makes the change to 10% and who were already using the deduction, housing authorities are to phase in the increase over three years, so that it will be expenses above 5% in the first year, and expenses above 7.5% in the second year, and 10% in the third year.
- ³⁸ 42 USC 1437a(b)(5)(D)(ii) and 24 CFR 5.611(a)(3)(ii). At least under pre-HOTMA, a good guide to the types of medical expenses that can be deducted can be found through a publication from the Internal Revenue Service, found at: <http://www.irs.gov/pub/irs-pdf/p502.pdf>.
- ³⁹ For people already using this disability deduction, it will increase from 3% to 10% over three years once HOTMA takes effect. If a household has both qualifying medical expenses and disability expenses, these can be aggregated, and the combined expenses above 10% of annual income

(or lower percentages during phase in) can be used. If a family experiences financial hardship but was not previously receiving the more generous deduction of medical or disability expenses, it can get a 90-day hardship use of deduction of medical or disability expenses in excess of 5% of annual income, and a further 90-day period may be provided by the housing authority. 24 C.F.R. 5.611(a)(3) and (c). The medical and disability assistance expense hardship provisions are found at 24 CFR 5.611(c) and (e).

40 Attendant care includes: In-home care, nursing, housekeeping, errand service, interpreters for people who are hearing impaired, a reader for a person with a visual disability, or costs associated with the keeping and caring of service or companion animals. Auxiliary apparatus includes: wheelchairs, walkers, scooters, reading devices for people with visual disabilities, equipment to add to cars and vans to permit their use by family members with a disability, or service or assistance animals. See *Public Housing Occupancy Guidebook*, page 124 at www.hud.gov/sites/documents/doc_10760.pdf. See also HUD Fair Housing & Equal Opportunity (FHEO) Notice 2013-01 (April 25, 2013) for more about service or assistance animals.

41 In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in *annual income*. 24 C.F.R. § 5.603(b). See also 42 U.S.C. § 1437a(b)(5)(C). Note that there is a provision for a 90-day hardship extension, which the housing authority may extend for an additional 90-day period, of the child care deduction if there is financial hardship but the family might not otherwise qualify for the deduction, such as where the family member is no longer employed. See 24 C.F.R. 5.611(d-e).

42 760 C.M.R. § 6.05(4).

43 In June 2024, the Executive Office of Housing and Livable Communities updated the heat deduction schedule, below:

Bedrooms	Standard Heat Deduction (All Programs, Tenant Pays Heat)	Electric Heat Increment (Addition to Standard Deduction)		Total Deduction w/ Electric Heat	
	All Programs	c.200 and c.667	c.705	c.200 and c.667	c.705
0	\$600	\$200	\$200	\$800	\$800
1	\$800	\$400	\$600	\$1,200	\$1,400
2	\$1,000	\$800	\$1,500	\$1,800	\$2,500
3	\$1,200	\$1,000	\$1,900	\$2,200	\$3,100
4	\$1,400	\$1,200	\$2,300	\$2,600	\$3,700
5	\$1,600	\$1,400	\$2,700	\$3,000	\$4,300

For more go to: <https://www.mass.gov/doc/attachment-g-plain-language-to-phn-2024-07/download>

44 760 C.M.R. § 6.05(4)(e).

-
- ⁴⁵ 760 CMR 6.05(4)(h). This deduction cannot exceed gross income of the household member involved.
- ⁴⁶ 760 CMR 6.05(4)(i). Household Member with a disability must be unable to perform the housekeeping or personal care services provided and no Household Member is reasonably available to perform these services.
- ⁴⁷ 760 C.M.R. § 6.05(4)(j).
- ⁴⁸ HUD PIH Notice 2005-37 provided guidance on income calculation regarding the Medicare Prescription Drug Plan – Part D Program, but in 2019, HUD identified this notice as one that should no longer be in effect or was deemed unnecessary and obsolete.
See <https://www.federalregister.gov/documents/2020/11/03/2020-23986/removal-and-archiving-of-additional-obsolete-and-superseded-guidance-documents>.
- ⁴⁹ The standard mileage rate allowed by the IRS for operating expenses for a car when you use it for medical reasons is 21 cents a mile as of April 2025. For the current rate, see IRS Publication 502 at <https://www.irs.gov/pub/irs-pdf/p502.pdf>.
- ⁵⁰ See *Public Housing Occupancy Guidebook*, page 124 at: www.hud.gov/sites/documents/doc_10760.pdf. See also endnote 40.
- ⁵¹ **State:** See PHN 2023-01 Guidance for Animals in State-aided Public Housing (dated Feb 1, 2023) at unnumbered page 3, along with the following attachments: Attachment A - Terms Defined, Attachment B - Flow Chart, Attachment C - Animal Related Reasonable Accommodations Verification Process, and Attachment D - Resources.
Federal: Public Housing Occupancy Guide, Income Determination, June 2020, Section 6.4. See also, HUD Handbook 4350.3 Occupancy Requirements of Subsidized Multifamily Housing programs, at page 5-49 (interpreting same regulation but for a different housing program)
- ⁵² The 3% medical deduction will change to 10% when HOTMA takes effect. See also endnote 37. 42 U.S.C. § 1437a(b)(5)(D); 24 C.F.R. § 5.611(a)(3). As defined in 24 C.F.R. § 5.100, “elderly person” means an individual who is at least 62 years of age. 24 C.F.R. 5.611(c)(1).
- ⁵³ See endnote 40.
- ⁵⁴ This 3% threshold will change to 10% when HOTMA takes effect. See endnote 39.
- ⁵⁵ This 3% threshold will change to 10% when HOTMA takes effect and be phased in over three years. See endnote 39. 24 C.F.R. 5.611(a)(3) and (c)(1). See also endnote 40 for details on attendant and auxiliary care.
- ⁵⁶ 760 C.M.R. § 6.05(4)(e).

-
- ⁵⁷ 760 C.M.R. § 6.05(4)(a).
- ⁵⁸ 760 CMR 6.05(4)(i).
- ⁵⁹ **Pre-HOTMA:** 24 C.F.R. § 5.609(c)(14); **Final-HOTMA:** 24 C.F.R. § 5.609(b)(16).
- ⁶⁰ See 24 C.F.R. § 5.603 for the definition of *net family assets*. In addition, 24 C.F.R. § 5.609(b)(2) lists a number of trust distributions which do not count as income.
- ⁶¹ In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust per definition of *net family assets*, 24 C.F.R. § 5.603. See also 24 C.F.R. § 5.609(b) and *HUD Multifamily Occupancy Handbook*, 4350.3 for more about how trusts can be structured in the context of multifamily housing.
- ⁶² For state public housing, such one-time payments are treated as income and used in the computation of rent only if received during a period of time when you lived in public housing. 760 C.M.R. § 6.05(3)(b). The same argument can be made in federal public housing, but the rules are less clear.
- ⁶³ In federal housing, the asset value will increase from \$5,000 to \$50,000 when HOTMA takes effect.
- ⁶⁴ In federal housing, the asset value will increase from \$5,000 to \$50,000 when HOTMA takes effect. As noted in 24 C.F.R. § 5.609(a)(2), this \$50,000 figure is to be adjusted over time to reflect changes in the Consumer Price Index.
- ⁶⁵ **State:** 760 C.M.R. § 6.05(2)(c) states that the rate shall be 1% or as otherwise determined by EOHLC and posted on EOHLC's website; **Federal: Pre-HOTMA:** 24 C.F.R. § 5.609(b)(3); **Final-HOTMA:** 24 C.F.R. § 5.609(a)(2).
- ⁶⁶ See also 24 C.F.R. § 5.609(b) for a discussion of various distributions and whether they are treated as income. In federal multifamily housing, it is clear that withdrawals from IRAs are not considered income. *HUD Multifamily Occupancy Handbook*, 4350.3 CHG-1 (Aug. 2004), Chapter 5. Although this handbook is for residents in federal multifamily housing, one could advocate that IRAs in public housing be treated similarly.
- ⁶⁷ G.L. c. 186, §22(s) applies only to state public housing and state public housing redeveloped under G.L. c. 121B, § 34, as modified by St. 2024, c. 150, § 35. But if you live in a mixed finance building, the housing authority may be allowed to charge you for water if there is correct submetering in place. See Question 29 to learn about mixed finance developments.

-
- ⁶⁸ G.L. c. 121B, §§ 32, 40(e); **Elderly/handicapped:** G.L. c. 121B, § 40(e); 760 C.M.R. § 6.04(1)(a); **Family housing:** 760 C.M.R. § 6.04(1)(b).
- ⁶⁹ 42 U.S.C. § 1437a(a)(1); 24 C.F.R. § 960.253(c)(3).
- ⁷⁰ 24 C.F.R. §§ 965.505, 965.507(a).
- ⁷¹ 24 C.F.R. § 965.507(b).
- ⁷² Any schedule of charges must be based on estimated utility consumption and must be subject to notice and comment by tenants before it is adopted or reviewed. 24 C.F.R. § 965.506.
- ⁷³ The housing authority’s criteria and procedure for granting relief from insufficient utility allowances or utility surcharges must be adopted at the time utility allowances are adopted and all tenants must be given notice of this. 24 C.F.R. §§ 965.502(c), 965.508.
- ⁷⁴ 42 U.S.C. § 1437a(a)(3)(A); 24 C.F.R. § 5.630.
- ⁷⁵ G.L. c. 121B, § 32. 760 C.M.R. § 6.04(1)(e).
- ⁷⁶ **State:** G.L. c. 121B, § 32, 760 C.M.R. § 6.04(1)(e); **Federal:** 42 U.S.C. § 1437a(a)(3)(B); 24 C.F.R. § 5.630(b). The state statute is modeled on the federal statute.
- ⁷⁷ Fed. Reg., Vol. 64, No. 32, February 18, 1999, pp. 8192 and 8198; Fed. Reg., Vol. 64, No. 83, April 30, 1999, p. 23344. For state public housing, see 760 C.M.R. 6.04(1)(e).
- ⁷⁸ 760 C.M.R. § 6.05(3)(i).
- ⁷⁹ 760 C.M.R. § 6.05(3)(i).
- ⁸⁰ G.L. c. 121B, § 32; 760 C.M.R. § 6.05(3)(p). Find the current Massachusetts minimum wage and other related information at <https://www.mass.gov/info-details/massachusetts-law-about-minimum-wage>
- ⁸¹ 24 C.F.R. § 960.255.
- ⁸² This will likely change once HOTMA is implemented.
- ⁸³ For more guidance about good cause, see document entitled “Good Cause for Nonpayment of Rent” provided by the Executive Office of Housing and Livable Communities (May 2025), available on MassLegalServices at: <https://www.masslegalservices.org/system/files/library/RAFT-GoodCauseforsubsidizedtenants.pdf>
- ⁸⁴ G.L. c. 186, § 15B(1)(c).
- ⁸⁵ Under G.L. c. 239, § 2, a summary process complaint for non-payment can include claims for unpaid rent (or “use and occupancy”) but not other

amounts that may be owed to the landlord under the lease, such as repair charges, an unpaid security deposit, or late fees.

- ⁸⁶ G.L. c. 121B, § 32; 760 C.M.R. § 6.04(3)(b); DHCD Public Housing Notice 2003-06.
- ⁸⁷ 760 CMR § 6.04(3)(b).
- ⁸⁸ 24 C.F.R. § 966.4(b)(3).
- ⁸⁹ 24 C.F.R. § 966.4(b)(4).
- ⁹⁰ 24 CF.R. § 966.4(l)(3)(i)(A).
- ⁹¹ 760 C.M.R. § 6.04(4).
- ⁹² 24 C.F.R. § 960.257(a); 42 U.S.C. § 1437a(a)(1), (a)(2)(E). The housing authority may apply set adjustments, such as cost of living adjustments (COLAs) reflecting how such fixed income has changed from prior years.
- ⁹³ See 42 U.S.C. § 1437a(a)(1) and 24 C.F.R. § 960.257(c)(2) and (c)(3). The housing authority may apply set adjustments, such as cost of living adjustments (COLAs) reflecting how such fixed income has changed from prior years.
- ⁹⁴ Public Housing Notice 2019-06, at <https://www.mass.gov/files/documents/2019/03/28/2019-06.pdf>
- ⁹⁵ Once HOTMA is implemented, you will need to immediately report any changes in household composition. You will also need to report on increases in adjusted household income of 10% or more from what was last reported. This can include situations where changed deductions would result in an increase in the adjusted income by 10% or more. There are exceptions to this if there is an increase in earned income. 42 U.S.C. § 1437a(a)(6)(A)(iv) and 24 C.F.R. § 960.257(b)(3). See Questions 3-5 (unclear what endnote should be cited).
- ⁹⁶ 24 C.F.R. § 960.257(b), (c); 24 C.F.R. § 966.4(c)(1). Also check the housing authority's Public Housing Agency Plan and its *Admissions and Continued Occupancy Policy*. Residents have a right to review and comment on housing authority policy changes that affect federal public housing residents through the Public Housing Authority Planning Process.
- ⁹⁷ After HOTMA is implemented, a housing authority can refuse to adjust the rent downward if adjusted household income has declined by less than 10%, unless the housing authority has established a policy to adjust rents for smaller losses of income. 42 USC § 1437a(a)(6)(A)(iii) and 24 C.F.R. § 960.257(b)(2). After HOTMA is implemented, a housing authority may choose not to conduct an interim recertification if it is within the last 3 months of the recertification period. 24 C.F.R. § 960.257(b)(3)(ii). Check the housing authority's policies on this. If you report on an increase in

your annual income on time, then the housing authority should give you at least 30 days' advance written notice of the rent change. Rent decreases are to be effective the first of the month following the date of the change leading to recertification. If you do not report the increase on time, then the housing authority can implement the rent increase retroactive to the first of the month after the change requiring recertification.

⁹⁸ 760 C.M.R. § 6.04(5)(a).

⁹⁹ 760 C.M.R. § 6.04(9). If any of this lump sum payment covered a period when you did not live in state public housing, that portion of the payment should be excluded.

¹⁰⁰ 760 C.M.R. § 6.10.

¹⁰¹ 24 C.F.R. § 960.257(a)(2); **Pre-HOTMA**: 24 C.F.R. § 960.253(e)(2); **Final-HOTMA**: 24 C.F.R. § 960.253(f)(1); 42 U.S.C. § 1437a(a)(2)(E).

¹⁰² 24 C.F.R. § 960.253(e)(2), (f). Note that the housing authority is **obligated** to provide sufficient information for families to make informed choices about rent options. If the family chooses a flat rent, the housing authority must provide the amount of income-based rent if an income reexamination is conducted or if the family makes a specific request and submits updated income information. See also 42 U.S.C. § 1437a(a)(2)(A)(i), stating that a public housing agency may not at any time fail to provide both flat and income-based rent options for any housing unit owned, assisted, or operated by the agency.

¹⁰³ 24 C.F.R. § 960.253(e)(2).

¹⁰⁴ For state public housing, see 760 C.M.R. § 6.04(4)(d), (5)(a). For federal public housing, see 24 C.F.R. § 960.257(b)(6)(ii-iii).

¹⁰⁵ 760 C.M.R. §§ 6.04(5)(a), (8), (9).

¹⁰⁶ 760 C.M.R. § 6.04(8).

¹⁰⁷ Find more information about HUD's Enterprise Income Verification system at: <https://www.hud.gov/helping-americans/public-indian-housing-eiv>

¹⁰⁸ See PIH Notice 2017-12 (Aug. 4, 2017); see also Executive Order 13520, 74 Fed. Reg. 62201 (Nov. 20, 2009), making clear that one goal of recouping funds owed to the federal government is to ensure that families in need of certain programs can continue to utilize them.

¹⁰⁹ DHCD Public Housing Notice 2023-03 at: <https://www.mass.gov/doc/phn-2023-03-wage-match-for-state-housing-program-tenants/download>

¹¹⁰ **State**: 760 C.M.R. § 6.04(4)(d); **Federal: Pre-HOTMA**: 24 C.F.R. § 5.609(a)(2); **Final-HOTMA**: 24 C.F.R. § 5.609(c).

-
- 111 760 C.M.R. § 6.04(4)(e), (5)(a).
- 112 760 C.M.R. § 6.04(4)(d).
- 113 24 C.F.R. § 960.257(b)(6)(ii-iii). After HOTMA is implemented, if you live in federal public housing, rent can be increased *retroactively* if you failed to report an increase in annual adjusted income that would have resulted in a rent increase.
- 114 760 C.M.R. § 6.04(4)(d)-(e).
- 115 Once HOTMA is implemented, the housing authority must give you 30 days advance written notice of a rent increase. If, however, you didn't timely report an increase in income, such a 30-day advance notice is not required. 24 C.F.R. § 960.257(b)(6).
- 116 **State:** 760 C.M.R. § 6.04(5)(b); **Federal:** 24 C.F.R. § 960.257(b).
- 117 760 C.M.R. § 6.04(5)(b).
- 118 760 C.M.R. § 6.04(5)(b).
- 119 24 C.F.R. § 960.257(b).
- 120 This policy has been adopted by HUD for its multifamily privately owned subsidized housing. *HUD Multifamily Occupancy Handbook*, 4350.3 CHG-1 (Aug. 2004), Chapter 7 at 7-13.
- 121 **State:** 760 C.M.R. § 6.04(6); **Federal:** 24 C.F.R. § 960.259; 24 C.F.R. § 5.240.
- 122 **State:** 760 C.M.R. § 6.06(3)(h); **Federal: Pre-HOTMA:** 24 C.F.R. § 966.4(c)(2); **Final-HOTMA:** 24 C.F.R. § 966.4(a)(1)(v).
- 123 See definition of "familial status." 42 U.S.C. § 3602(k).
- 124 760 C.M.R. § 6.06(3)(c).
- 125 24 C.F.R. § 966.4(d)(1).
- 126 See *Saxton v. Housing Authority of the City of Tacoma*, 1 F.3d 881 (9th Cir. 1993) which held that a public housing tenant whose request to add a returning family member to a lease was denied has a right to a grievance hearing pursuant to 24 C.F.R. § 966.50.
- 127 760 C.M.R. § 6.06(3)(g).
- 128 34 U.S.C. § 12471 et seq; 24 C.F.R. § 5.2005 et seq .
- 129 24 C.F.R. § 5.2005.
- 130 For lock changes or the right to vacate a unit due to domestic violence generally under state law, see G.L. c. 186, §§ 23-29.
- 131 **State:** 760 C.M.R. § 6.06(3)(f), 4(q)-(r).

-
- ¹³² **State:** G.L. c. 121B, § 32; 760 C.M.R. § 6.04(1)(c). Per 760 C.M.R. § 6.03, *overhoused* means a tenant household that the housing authority has determined, based upon the composition of the household, to be occupying a unit consisting of more bedrooms than is appropriate for the household size.
- ¹³³ G.L. c. 121B, § 32, 9th paragraph (applies to apartments consisting of 2 bedrooms or fewer, provided that the tenant has lived in the apartment for at least the last eight consecutive years and that the rent is not more than three months in arrears).
- ¹³⁴ See 760 C.M.R. § 5.06(2, 3) and 760 C.M.R. § 6.06(6)(f).
- ¹³⁵ See 42 U.S.C. § 1437n(a)(5) and 24 C.F.R. § 960.507.
- ¹³⁶ See PIH Notice 2012-32, REV-3 (January 2017), as updated by PIH Notice 2018-11. (July 2018, Supplement 3A and December, 2018, Supplement 3B) (RAD Notice), as well as PIH Notice 2019-8 (RAD Notice 4) (September 2019), as revised by RAD Supplements 4A (PIH Notice 2021-7, January 2021), 4B (PIH Notice 2023-19, July 2023), and 4C (PIH Notice 2025-3, January 2025. Note: before RAD, the early examples of mixed financing redevelopment in the 1990's and early 2000's were through the federal HOPE VI program, the Choice Neighborhoods program, and demolition or disposition efforts under federal law.
- ¹³⁷ G.L. c. 121B, § 34, as modified by St. 2024, c. 150, § 35.
- ¹³⁸ The 2024 legislation (St. 2024, c. 150, § 35), provides that redevelopment related contracts and agreements, must state how tenants shall be provided with technical assistance to facilitate meaningful input.
- ¹³⁹ Estimates range from \$30 billion to \$70 billion in unmet capital needs: <https://www.congress.gov/crs-product/IF12547>.
- ¹⁴⁰ The Project-Based Voucher (PBV) program is where a housing authority uses its Section 8 mobile vouchers to fund units that stay with a particular development. The PBV program is described at 42 U.S.C. § 1437f(o)(13) and at 24 C.F.R. Part 983. Many but not all of the provisions that apply to the regular Section 8 voucher program also apply to the PBV program—for a description of this, see 24 C.F.R. § 983.2.

The Project-Based Rental Assistance (PBRA) program provides rental assistance through contracts between HUD and owners of multifamily rental housing. If a tenant moves, the assistance stays with the housing development. For Section 8 Project-Based Rental Assistance (PBRA), see 42 U.S.C. § 1437f(b-c). There are no specific regulations for the type of Section 8 PBRA in RAD, beyond what's in the RAD Notice, but there are a number of HUD Section 8 PBRA programs found in HUD regulations.

-
- ¹⁴¹ While, under HOTMA, housing authorities now have the ability to establish additional discretionary deductions for Section 8 units they administer under Housing Choice Voucher Program (HCVP) and Project Based Vouchers (PBV), they also have to show that such deductions are cost neutral. While housing authorities may previously have established discretionary deductions for federal public housing, it is unlikely most housing authorities will believe they have sufficient fiscal security to do the same on the Section 8 side. See 42 U.S.C. §1437a(b)(5)(E) and 24 C.F.R. § 5.611(b)(1).
- ¹⁴² See 24 C.F.R. § 982.517(e). There's nothing explicitly like this for the Section 8 PBRA program, but tenants with disabilities could certainly try to get this. For example, if a tenant's medical needs required a home dialysis unit, this is likely to increase utility usage and would justify a higher allowance.
- ¹⁴³ The HOME Program is a federally funded program that provides funding to non-profit or for-profit developers for affordable rental housing production and rehabilitation.
- ¹⁴⁴ One of the family obligations under the Section 8 PBV program is the duty to cooperate with any housing authority requests for information on income and family composition. See 24 C.F.R. § 983.2 (Section 8 HCVP requirements generally apply to Section 8 PBV, with exceptions noted) and 24 C.F.R. § 982.551(b) (HCVP family obligations regarding recertification and reporting of information to the housing authority).
- ¹⁴⁵ For the Section 8 informal hearing process, see 24 C.F.R. § 982.555; for grievance rights, see 42 U.S.C. § 1437d(k), 24 C.F.R. Part 966, Subpart B (**federal**) and 760 C.M.R. § 6.08 (**state**).
- ¹⁴⁶ The Mixed Finance Residents Group at Boston Housing Authority has been successful in establishing such mixed finance tenant participation and funding policies.
- ¹⁴⁷ G.L. c. 121B, § 34, as modified by St. 2024, c. 150, 35.