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## Session Workbook

ILLINOIS HOUSING





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#### **Combining Multiple Housing Programs**



#### **Researching the Issues**

When determining how to comply with multiple housing programs at a property, the first step is to understand comparable rules for each program. Federal and state guidance documents and individual regulatory agreements for a property should be gathered and read carefully. Once this is done, analysis can be conducted to establish which interaction is appropriate to maintain compliance with all programs.

#### **Monitoring requirements**



When reconciling program requirements, it is very important to understand the difference between federal requirements and those imposed by the regulatory agency, such as the tax credit state HFA or the HOME PJ. More restrictive income and rent set-asides or specific conservative calculation methodologies are examples. The agency in these cases may have discretion in what they require and may be willing to negotiate their requirement to assist in complying with other program requirements.

#### **MULTI-PROGRAM INTERACTION SUMMARY**

	lt of Rule parison	Action to Take	Examples	
A. One program has a requirement that the other does not.		gram has a ment that the other Apply the requirement.	<ul> <li>HUD – Citizenship, criminal background, and numerous specific forms.</li> <li>RD – Complex waitlist requirements.</li> <li>HUD, RD or HOME – Conduct an affirmative marketing plan.</li> </ul>	
	programs have similar irements and:			
a.	The rules have built-in reconciliation provisions.	Apply the reconciled rule.	LIHTC with HUD or RD – Use HUD or RD utility allowances. LIHTC with HOME – Do not use income-based rent for over-income households.	
b.	One requirement is more restrictive.	Apply the more restrictive rule.	LIHTC with HUD, RD or HOME – Use lowest applicable Income limits. LIHTC with HUD or RD – Conduct annual income certifications at 100% LIHTC properties. LIHTC with HUD or RD – Apply minimum 1-year lease term LIHTC with HUD – Do not charge application fees.	
C.	The requirements are different and don't reconcile.	Apply both rules.	LIHTC with HUD, RD or HOME – Apply both student rules.	
d.	The requirements conflict.	Contact key persons to discuss risks and decide on an approach. • Owners • Investors • State HFA & other agencies.	LIHTC with RD or HUD – Displacing over-income households per RD rules or per LIHTC rules for existing households at a HUD acquisition/rehab. HUD or RD with LIHTC – Use of conservative calculations to determine eligibility (highest-in-range or year-to-date, for example).	



See also the "Multiple Program Guide" in the Course downloads.



#### VAWA

IRS Regs 1.42-9, 1.42-5 (c)(1)(v) IRS Notice 86-9; 8823 Guide Chapters 12-13

Fair Housing violations are also considered non-compliance with section 42. Further, most occupancy preferences or restrictions for specific groups (such as for an employer or trade group) are also prohibited.

#### **Fair Housing**

Fair Housing violations include:

- 1. An adverse final finding of discrimination by HUD.
- 2. An adverse final decision by a state or local Fair Housing agency that is substantially equivalent to HUD.
- 3. An adverse judgment from a federal court.

#### 8823 Guide Exhibit 13-2

A Memorandum of Understanding (MOU) between the Department of Justice (DOJ), HUD, and Treasury (IRS) is in place so that each agency will share fair housing violation information with the other agencies in the MOU.

VAWA violations are very likely to also be called Fair Housing violations under Fair Housing disparate impact provisions.

Knowledge Check Federally Protected Classes			
Sincere	S		
Renters	R		
Can	C		
Really	R		
Sue	S		
Now	N		
For	F		
Discrimination	D		

#### The Violence Against Women Act (VAWA) 2022 Statistics

HUD 2011 FHEO Notice on Domestic Violence

Domestic and dating violence, sexual assault, and stalking are sad facts of modern life. An estimated **1.3 million** women in the United States are survivors of assault by an intimate partner each year. Ultimately, a shocking **1 in every 4** U.S. women will experience intimate partner violence in their lifetime. Additionally, the US Department of Justice Statistics tells us that 85% of survivors of violence are women, which means that an additional 15% are men. An estimated five million children each year are also affected, adding to the millions that experience the painful reality that such violence brings. Such statistics represent untold pain, misery, and even death. VAWA seeks to provide a safe place in affordable housing for survivors who seek protection from such violence. Most of us can agree that these are worthy goals and make discussion of how to implement VAWA an important one.



#### Women Only?

Because of the name of the law, many people reasonably ask if the Violence Against Women Act only protects women. They are often concerned that would be fair housing discrimination under the protected class "sex" and they are right. Although the name refers to the fact that women are overwhelmingly the survivors of violence covered by VAWA, **the protections of VAWA apply to persons of any gender.** To do differently WOULD be fair housing gender discrimination.

#### BTZEAKING NEWS VAWA 2022

VAWA was reauthorized on March 11, 2022. Penalties were added equivalent to those for Fair Housing Violations and HUD was commissioned to open a VAWA Office. Protections were also put in place to protect people from retaliation who report VAWA crimes.

#### **Covered Violence**

VAWA Sec 3 VAWA seeks to protect survivors of four specific types of crimes, as defined below.

- 1. Domestic violence
- 2. Dating violence
- 3. Sexual assault
- 4. Stalking

#### 2022 Update: Future affordable housing programs

Anticipating the future, VAWA 2023 covered "any other Federal housing programs providing affordable housing to low- and moderate-income persons through restricted rents or rental assistance, or more generally providing affordable housing opportunities, as identified by the appropriate agency through regulations, notices, or any other means."

#### VAWA prohibits...

#### VAWA Title VI Sec 41411 (b)

VAWA tells us that "an applicant for or tenant of housing assisted under a covered housing program may not be denied admission to" or "denied assistance...on the basis that the applicant or tenant is or has been a survivor of domestic violence, dating violence, sexual assault, or stalking if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy."

VAWA further tells us that a "tenant of housing assisted under a covered housing program may not be terminated from participation in or evicted from the housing on the basis that the applicant or tenant is or has been a survivor of domestic violence, dating violence, sexual assault, or stalking if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy."

This means that criminal activity directly related to violence or "an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as- a serious or repeated violation of a lease for housing assisted under a covered housing program by the survivor or

threatened survivor of such an incident; or good cause for terminating the assistance, tenancy, or occupancy rights to housing assisted under a covered housing program of the survivor or threatened survivor of such incident."

#### Bifurcation

#### VAWA Title VI Sec 41411 (b)(3)(B)

Allowing survivors to stay when there are disturbances raises concern for many owners/agents. They ask if they cannot evict violent perpetrators and criminals from a property because of the survivors in the unit.



The answer is that VAWA allows for leases to be bifurcated. This is a fancy term that means *to separate*. VAWA tells us that we may "bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a survivor of such criminal activity who is also a tenant or lawful occupant of the housing."

This allows eviction or termination of assistance for the perpetrator while retaining the survivor. The remaining members are given a chance to qualify for the housing they reside in. If they do not qualify without the perpetrator, then they must be given "reasonable time" to find other housing or to establish eligibility under another covered housing program. HUD tells us in their guidance that 90 days is a *reasonable period* with an allowable extension of up to 60 days, at the owner's discretion.

If an owner can prove that an imminent threat to other tenants exists if the survivor is not evicted, there may still be grounds for legal eviction.

Survivors who remain after bifurcation are not guaranteed to qualify for the program at the property on their own, although often they will.

It is important to note that VAWA does allow that if the survivor also commits crimes or other lease violations, they can be evicted for those. Although issues related directly to being a survivor are covered, other violations are not, whether a person is a survivor or not.

#### Confidentiality

#### VAWA Title VI Sec 41411 (c)(4)

Because a survivor's life can be in danger if information is disclosed about their status, personal documentation relating to VAWA must be kept confidential and must not be entered into any shared database or disclosed to any other entity. Shared databases include property management software unless it secures sensitive personally identifiable information (PII) under the Privacy Act of 1974 (5 U.S.C. sec. 552a) and 24 CFR 5.2007(c).



Notice of Rights VAWA Title VI Sec 41411 (d) There are exceptions when sharing information outside of those who need to know within a property management company are allowed. Exceptions to this disclosure rule apply when any of the below apply:

- 1) the survivor requests or consents to the disclosure or
- 2) the documentation is required in a bifurcation eviction proceeding, or
- 3) otherwise required by applicable law.

# VAWA is complicated, and the writers of the law realized that it would be difficult for many survivors to be informed of their rights under VAWA. To address this issue, the statute requires that owners/agents inform residents of their VAWA rights. This is done through a *Notice of Occupancy Rights Under VAWA*. A template of this *Notice* has been developed by HUD and was released in late 2016 as form *HUD-5380*. A notice developed based on this template must be given to all residents at move in. This way they know about VAWA right away. Additionally, at key times when an owner/agent may take negative action that may be related to the applicant or resident being a survivor of violence, agents are required to give the family the *Notice*. This includes when an application is denied if assistance is denied for properties with rental assistance is terminated, or when notifying of eviction.



The HUD Notice is a template and cannot be used as-is. It requires customization to a property and area. For one thing, the last page of the *Notice* template requires that we provide the name and contact information for national survivor service agencies as well as local agencies. National information is provided on the template, but we need to complete the local contact information.

To customize the HUD *Notice* template, the owner/agent must:

- 1. Customize the document with the housing provider, property, and program, as directed on the template. Please note that the Notice mentions *assistance* many times. That refers to *rental assistance*, and if your property does not provide rental subsidy (such as many HOME and tax credit properties), you may consider removing that term.
- 2. Research and list local survivor assistance agencies.
- 3. Keep the list of agencies updated.

If these steps are taken, HUD has done much of the hard work in developing this template Notice.

#### **Conflicting Stories**

#### VAWA Title VI Sec 41411 (c)(7)

When there are conflicting stories, such as when multiple residents in a unit claim to be a survivor of other residents, then the owner/agent can require third-party documentation. HUD considers 30 days a reasonable time for the owner to give the survivor to provide alternative documentation.

If documentation is inconclusive, HUD suggests allowing both residents to exercise their rights. An example would be allowing both to continue to get assistance in separate units.



#### **Emergency Transfers**

#### VAWA Title VI Sec 41411 (e)

VAWA allows survivors who feel that they are in imminent danger of violence if they remain in their current unit to request an emergency transfer to a unit where they will feel safer. This can be to a unit on the same property or to another property. A special rule also allows survivors of sexual assault that occurred on the property to automatically request a transfer within 90 days if they wish. Of course, they also can request a transfer any time after 90 days, if they feel they are in imminent danger in the future, as is true with all VAWA survivors. The owner may request but cannot require that the request be in writing.

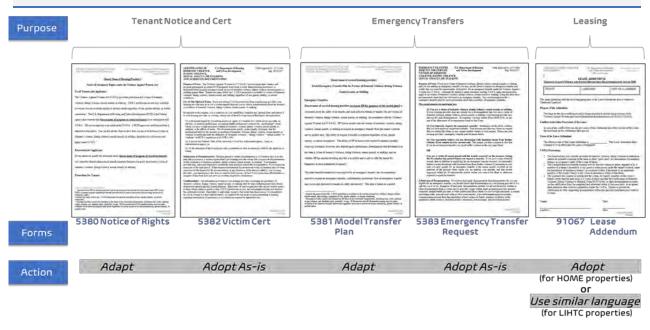
VAWA makes Agencies responsible for carrying out a housing program responsible for drafting a sample emergency transfer plan to meet VAWA and program-specific requirements. HOME PJs are to supply the model to HOME properties. Owners must then implement a plan for each property based on the model.

Owner/agents are not required to violate a program requirement to allow the transfer. They are also not required, although they are encouraged, to give survivors preference to occupy newly vacant units over others to facilitate these transfers. It is also strongly encouraged that a network of agencies and other housing owners be cultivated to work together to assist survivors in covered housing. For transfers within a property or between properties within an owner's control, steps should be taken to minimize the application process as much as allowed by the program.

Costs to transfer are the responsibility of the household, but owners are encouraged to help them locate agencies or resources to assist. Money may be available through the DOJ Office of Justice Programs' Victim's Defense Fund.



#### VAWA Forms



A receipt form where a family attests that they have received and retained key forms is one way to demonstrate compliance with informational forms requirements, including the VAWA Notice of Rights and Emergency Transfer policy.



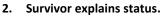
#### **Detailed Summary of VAWA Procedure**

#### VAWA Title VI Sec 41411 (c)

VAWA prescribes a set of actions that are triggered between an owner and an applicant or resident. These are listed below.

#### 1. The owner takes negative action.

• These actions can include denying an applicant occupancy or assistance. They can also include terminating rental assistance or eviction. These are taken as usual per the owner/agent's normal policies and procedures. The agent will provide the applicant or resident with the VAWA *Notice of Rights*, and a *Certification of Violence*, which will be discussed in greater detail in a bit. Note that providing this often will satisfy step 3 below.



• Since the applicant/resident now has the *Notice* explaining their rights and a copy of the *Certification of Violence*, they will often provide the *Certification* and satisfy the next two steps immediately.

#### 3. Owner requests documentation.

- This request must be in writing. Again, providing the *Certification of Violence* often will often satisfy this step, *as long as it is accompanied by a dated letter*. If the survivor does not supply the *Certification* immediately (steps 2 and 4), they may be given 14 business days to provide documentation. Business days do not include weekends and holidays. Depending on the circumstances, the owner/agent may but is not required to allow for more time. If the documentation is not provided in 14 days, the owner is under no further obligation and may proceed with the negative action.
- 4. Survivor provides documentation.
- This can include the completed *Certification of Violence* or other documentation that the applicant/resident may choose. VAWA is designed to allow flexibility in verification. Documentation should not be a barrier to getting a survivor the assistance that they need. Various options are mentioned in the law. Below are further details on the three major categories of documentation. The first and primary method is self-certification by the survivor.

#### VAWA Title VI Sec 41411 (d)

- A. Certification of violence. This is a self-affidavit and is the primary method that a survivor can use to declare their status. HUD has expressed its legal opinion that the statute only requires self-certification. There is an exception when there is/are conflicting stories from residents. Those situations will be covered later in this manual, but other than conflicting evidence, agents will usually accept self-certification using the *Certification* form or similar. If an owner does not use the *Certification* supplied by HUD, VAWA says that the Victim Cert must include the survivor's certification that they are a survivor of violence, and that the violence is a type covered by VAWA. They can do this by explaining the incident or incidents on the form. They also need to provide the name of the perpetrator of the violence, if it is known, and they feel that it is safe to do so.
- **B.** Third-party Documentation. A survivor may document their status using a document that is signed by an employee, agent, or volunteer of a survivor service provider, an attorney, a medical or a mental health professional from whom an applicant or tenant has sought assistance relating to violence, or the effects of the abuse. The applicant or tenant must also sign this statement. The document must state under penalty of perjury that the professional believes that the incident of violence meets the requirements to be covered by VAWA.
- **C.** Law enforcement or other. If we have a record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or at the discretion of the manager of housing, a statement or other evidence provided by an applicant or tenant. VAWA does not want a lack of documentation to be an issue that results in further harm to survivors. Great flexibility is given to us to use a wide variety of documentation a survivor may be able to supply.
- 5. The owner reevaluates the negative action and upholds or withdraws it.







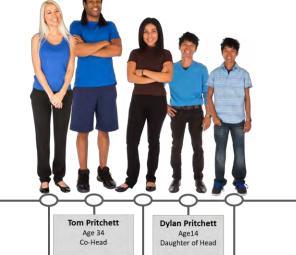
#### 2021 Flashback! | The Pritchetts

Credit and criminal background checks come back meeting the property's resident selection policy. Then a negative landlord reference is received.

What should the manager do?

After that action, the household submits a victim's certification.

What should the manager do?



C

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1. Dat	the written request is received by victim:7-10-2020	
2. Nan	e of victim: Mary Pritchett	
	r name (if different from victim's): Macy Pritchett	
	ne(s) of other family member(s) listed on the lease: <u>Macy, Tom, Dylan and C</u>	ole Pritchei
5. Res	1234 Maricopa Drive, Sample City dence of victim:	
6. Nan	Unknow e of the accused perpetrator (if known and can be safely disclosed):	m
7. Rel:	tionship of the accused perpetrator to the victim: <u>Unknown</u>	
	(s) and times(s) of incident(s) (if known):5/23/2020	
	cation of incident(s): Sample City use describe in your own words the incident(s) Our daughter. Mary, started to g	et increasing
Plea cree thre have We som	<b>Exation of incident(s):</b> Sample City use describe in your own words the incident(s) Our daughter, Mary, started to g py messages from the father of a friend. His messages were inappropriate, atening when she told him to stop. Bad things started happening where only the been, including within the apartment while we were gone. Somehow, he had a c baid to change the locks, but that made his messages even more threatening. F ething really bad would happen on a specific night. While we were gone, some upartment and cut up all of the family pictures except Mary's. He painted obsceni	then turned t family shoul opy of the key 'inally, he sai one broke int
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#### Check it Out! HUD.gov/VAWA



#### Checklist | Is it a VAWA Situation?

Hint: Questions to determine if VAWA is involved. A "yes" is required to one of the below.

- YES NO Did the owner/agent seek to deny occupancy or evict to trigger VAWA protection? AND is the action the result of VAWA violence?
- YES NO Is an emergency transfer request involved?

#### Knowledge Check

#### Identifying VAWA Situations

Check the box if a situation triggers VAWA and leave it unchecked if not related to VAWA. If it is unclear, add what questions need to be asked in the notes section.

- A tenant comes into the office and requests that her locks be changed because she broke up with her violent boyfriend who is not a resident, and he will not return a copy of her key.
  Notes
- An applicant is denied admittance due to bad landlord references. Notes
- A resident's ex-husband is released from prison after serving a term for assault and attempted murder of the resident. The assault happened 40 years ago. The resident wants to leave the state with no notice.
  Notes
- A resident wants to move to get away from noisy neighbors who fight violently. Notes
- Part 1 | A survivor of violence assaults another resident during a dispute over laundry left in a dryer. The owner seeks to evict the survivor for the assault. Notes
- Part 2 | The spouse of the above assaulter seeks protection from the eviction as they have also been abused by the perpetrator.
  - Notes
- A survivor of violence loses his job because the shop he works for goes out of business. He seeks VAWA protection when the owner seeks to evict him for nonpayment. Notes



#### Introduction to the Section 811 Program

### Section 811 Rental Assistance Program



#### What is the Section 811 Project-Based Rental Assistance Program?

The Section 811 Project-Based Rental Assistance Program provides supportive housing for persons with disabilities, funded and monitored by the U.S. Department of Housing and Urban Development (HUD). The program assists the lowest income people with disabilities to live independently in the community, providing affordable housing linked with voluntary services and supports (e.g., Medicaid Long-Term Services and Supports or State Plan Services).

#### \$18 million

More than \$18 million has been awarded to the Illinois Housing Development Authority (IHDA) and its partners (the Department on Aging, the Department of Healthcare and Family Services, and the Department of Human Services) that will make make about 500 affordable units available across the State.



Persons in one of the three Olmstead Class Action Lawsuits in Illinois (Williams, Colbert, and Ligas), living with a disability and at risk of placement in Long-term care, or living in a State Operated Developmental Center (SODC) can participate. Ligas class members include Intermediate Care Facilities for Developmental Disabilities residents and those selected from the Prioritization of Urgency of Need for Services (PUNS) list for services. All persons must also be eligible to receive Medicaid Long-Term Services and Support (LTSS) or State Medicaid Plan Services, be between the ages of 18 and 61, and have an income at or below 30% of the area's median income (AMI). AMI is determined by HUD census data on a county or metropolitan area.

#### How Does Project-Based Rental Assistance Work?

Affordable housing properties located in communities with sufficient Section 811 waitlist demand that are willing to participate in the program may receive a scoring incentive during the application process (detailed in IHDA's Qualified Allocation Plan or QAP for properties that use Low-Income Housing Tax Credits or LIHTC).

A portion of the units within an affordable housing development are set-aside to receive Section 811 Project-Based Rental Assistance. No more than 25% of the development's units can be Section 811, to ensure a mixed-income community.

#### Key points to remember:

The Rental Assistance is assigned to a unit/property, not an individual. Individuals can come and go but the rental assistance stays with the units.

The eligible **tenants pay about 30% of their gross adjusted incomes** toward the rent and the Section 811 Project-Based Rental Assistance pays the difference between what the tenant can pay and the actual rent amount.

#### **Program Description**

The Section 811 Project Rental Assistance (PRA) program provides project-based rental assistance for extremely low-income persons with an intellectual or development disability, including those with a cooccurring mental illness. The program is made possible through a partnership between South Dakota Housing Development Authority (SDHDA), the Department of Human Services (DHS), the local Community Support Providers and eligible multifamily properties.

The Section 811 PRA program creates the opportunity for persons with disabilities to live as independently as possible through the coordination of voluntary services and providing a choice of subsidized, integrated rental housing options. People who may benefit from this program include people with disabilities living in a nursing home, hospital or a group home, as well as, individuals with disabilities exiting foster care.



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#### Who 811 Assists

Eligible individuals must have an intellectual or development disability as defined in Section 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 1502(8)), and those individuals with co-occurring conditions of intellectual or developmental disabilities and mental illnesses.

#### **Resident Eligibility – Elderly status**

811 units cannot be at properties designated for the elderly. At least one person in the household, at the time of admission into the Program, must be at least 18 years of age, but less than 62 with income at or below 30% of AMI.

The individual with a disability must be eligible for community-based long-term services and supports provided under South Dakota's plan for medical assistance under Title XIX of the Social Security Act or other comparable federal, state or local program.

#### 811 and Students

The 811 program has no prohibition against students. Tax credit and/or HOME student rules will apply as appropriate to the unit involved.

#### **Background Checks**

Eligible individuals must pass a background check and cannot be subject to a Life-time Sex Offender Registration.

#### 811 Income limits

#### HUD 4350.3 3-6

The income limit used for HUD properties depends on the program. Households must qualify based on gross annual income. For Section 8, the very-low 50% AMI limits generally apply, but 40% of new move-ins must be at the extremely low (30% AMI) limits (see "income targeting" later in this manual).

#### HUD 4350.3 Figure 3-3 Income Limits by Program

Subsidy	Income Limit
Section 8 (post-1981)	Very low and extremely low
Section 811	Extremely low

#### Verification

Verification of income and other relevant factors is conducted per the HUD Handbook 4350.3 (as amended by HOTMA after HOTMA is implemented).

#### **EIV**

HUD RA subsidy programs, including 811, require the use of Enterprise Income Verification (EIV) reports for an applicant or resident at key points, including prior to occupancy (*Existing Tenant Search* report), 90 days (120 days after HOTMA) after move-in and annually (*Income* Reports) and several other report types on a monthly or quarterly basis, per company policy.

#### Assets not exceeding \$5,000

8823 Guide 4-7; Rev. Proc. 94-65







Owners must verify all known income and assets that affect eligibility. However, if the total assets for a household are \$5,000 or less for LIHTC units, the applicants may satisfy the asset requirement by signing a statement attesting to such fact. Generally state tax credit HFAs provide a form for this use. *This provision is unique to tax credits and will not apply at move-in for other programs. Once HOTMA is effective the threshold will move to \$50,000 and programs under HOTMA will be allowed this, except assets will need to be verified with documents prepared by third parties once every three years.* 

#### Waitlist Procedure



Information for Owners and Managers About Properties with SRN and 811 IHDA resources

#### **Illinois Housing Search Website**

ILHousingSearch.org (ILHS) is a free housing resource to help property managers, owners, and landlords advertise rental properties throughout the State of Illinois. Some unit characteristics expressed on the site include indoor and outdoor amenities, accessibility features, and application requirements. The website allows property managers to list units and update their availability.

#### The Pre-Screening, Assessment, Intake, and Referral (PAIR) Module

The PAIR module is a waitlist management system for SRN and Section 811 units. PAIR pre-screens individuals for SRN and/or 811 eligibility and then allows persons to apply for one or both waiting lists with a three-page application. The Waiting List Manager (WLM) reviews the application and those accepted intake onto the waiting list. The WLM then facilitates the matching and referral of qualified applicants to available SRN or 811 units. Section 811 units are only available to certain populations and have stricter requirements than other SRN units.

#### Statewide Referral Network

The Statewide Referral Network (SRN) links vulnerable populations (already connected to services) to affordable, available, supportive housing. IHDA requires developers to have 5%-10% of their units put in the SRN. Financed for 30% AMI households, SRN units are designed to serve persons in need of permanent supportive housing. Eligible populations include persons with any disability or persons experiencing or at-risk-of homelessness (according to the HEARTH act definition). All of these populations must also be persons with 30% or less of Area Median Income (AMI).

#### Your Obligations as a <u>Proper</u>ty Owner or Manager

by partner agencies IHDA, IDHFS, IDHS, and IL

Complete the periodic poll sent every month to you by Emphasys. When you are at 65% construction completion, have your Certificate of Occupancy, or when you have a unit turning over in the near future, mark this in the poll.

2. There may be a 2-3 day delay between submitting your availability in the poll and the Waitlist Manager being able to view your units on the waiting list. It also takes time to notify eligible applicants in order to send you referrals. Be patient during this process.

3. Once new SRN units are listed as available on the waitlist via your poll response, you must hold them open to SRN referrals only for 90 days. Section 811 unit(s) only need to be held open for 811 referrals only for 60 days. If the unit is not rented in 90 or 60 days, respectfully, you may contact the Waitlist Manager to discuss the possibility of an SRN waiver.

4. Conduct a normal tenant application procedure while the unit is open to the SRN, and contact the WM when a tenant is denied and when the unit is rented, so the PAIR module may be updated. Always include a copy of the executed lease agreement in your correspondence.

5. Continue to fill out the periodic poll every month. When you have a turnover unit, mark it as available in the poll with the date it will be ready for occupancy. Hold the turnover SRN or 811 unit for 30 days. If the unit is not rented in 30 days, you may contact the WM about a waiver.

6. Do not directly contact Service Providers or potential tenants outside the PAIR module waiting list during this SRN process.

#### **Questions? Contact**

#### IHDA

Contact Sharde Hondras or Paula Lewis for questions about property obligations or waiver requests. (872) 271-8142 | SHondras@ihda.org

(872) 271-8177 | PLewis@ihda.org

#### listing or unit information related questions. (866)-973-3147

Emphasys

polling@emphasys-software.com

Contact the website administrator with

#### Waitlist Manager

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Contact DHS with referral related concerns. (217) 557-3095 DHS.ILPAIRWaitlist@illinois.gov

#### Annual Recertification

 Residents will participate in an annual recertification every year, where their income, assets and any deductions, as well as their rent will be recalculated. The tenant will receive four written reminder notifications (1 year, 120 days, 90 days, and 60 days in advance). It is very important that the tenant is recertified before their anniversary date, as their subsidy must be terminated if this is not done.



2. The resident will also be required to notify the manager if the tenant's income increases by more than \$200/month (10% of adjusted income and not applicable to earned income after HOTMA takes effect), at any time throughout the year. Reporting a decrease in income, or an increase in any medical expense is optional, but since the rent is based on adjusted income, it can be advantageous to report these things as well. Failure to report increases of income may result in large sums of money that will need to be repaid by the resident to HUD in accordance with the lease. Each property has its own reporting requirements (10 days for instance, is common). The tenant will be made aware of this requirement upon lease signing.

#### 811 Model Lease

HUD has a Model Lease that must be used for the Section 811 program. It is not the same as the Section 8 Model Lease.

#### Rents

Gross 811 contract rents are established for a project each year. An approved form HUD 92458 (Rent Schedule) demonstrates project rents. For residents with 811 rental assistance, rent is based on 30% of adjusted income. As these units will represent a significant additional administrative burden, maximum allowed rents should likely be sought.

#### **Tax Credit Rents**

#### HUD 4350.3 5-30 B, 8823 Guide 11-5

The portion of the rent paid by Section 811 tenants can exceed the tax credit rent ceiling if the owner receives a Section 8 assistance payment on behalf of the resident. If subsidy ends, however, the household may not pay more than the tax credit rent limit.

HUD does tell us that, generally, if the family's income has increased since move-in to a point that the assisted rent exceeds the tax credit rent but is below contract rent, that family may make a choice between the lower tax credit rent and the security of continuing on the rental assistance program. It is unclear if, but likely that, this applies to Section 811.

#### Adjusted Income-Based Rent

#### HUD 4350.3 5-9

There are five possible deductions that may be subtracted from annual income based on allowable household expenses and household characteristics. The remainder, after these deductions are subtracted, is called adjusted income. Adjusted income is generally the amount upon which rent is based. Before rent is calculated, annual adjusted income is converted to monthly adjusted income.

#### **Calculating Expenses – Adjusted Income (Deductions)**

§ 5.611, HUD 4350.3 REV-1 Exhibit 5-3, HB-2 6.9 C, Exhibit 6-1, Attachment 6-C



#### Define...

**Adjusted income** is calculated by subtracting from annual income any of 5 deductions that apply to the household. Not all households are eligible for all deductions.



Exhibit 6-1 Allowable Deductions from Annual Income			
Deduction	Elderly Households	Nonelderly Households	
1. Dependent deduction	Yes	Yes	
2. Child care expenses	Yes	Yes	
3. Elderly Household	Yes	No	
4. Disability assistance	Yes	Yes	
5. Medical expense	Yes	No	

- 1. \$480 for **each** dependent in the household (adjusted for inflation annually after HOTMA).
- 2. Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.
- 3. \$400 for any elderly or disabled household (this is not per elderly or disabled person and will be \$525 and adjusted for inflation for after HOTMA).
- 4. To the extent that the sum of this deduction and #5, below, exceeds 3% (10% after HOTMA) of the annual household income: the sum of the unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by the family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus.
- 5. To the extent that the sum of this deduction and #4, above, exceeds 3% (10% after HOTMA) of the annual household income: the sum of the unreimbursed health and medical expenses of any elderly family or disabled family. See Exhibit 5-3 for a listing of what is acceptable as a medical expense.

DEDUCTIONS AND ALLOWANCES			
TAX CREDIT	HUD	RD	HOME
Deductions and allowances are not used. Rent is not based on income.	<ul> <li>HUD has 5 types of deductions and allowances used to determine adjusted income and rent. Open to all applicable households are: <ol> <li>Dependent deduction (\$480 per dependent per year)</li> <li>Child care expenses and</li> <li>Disability assistance expenses</li> </ol> </li> <li>Available to households where the head or co-head is elderly or disabled are: <ol> <li>Medical expenses and</li> <li>Elderly household deduction (\$400 per household per year)</li> </ol> </li> </ul>	RD uses the 5 HUD deductions and allowances.	HOME uses HUD's 5 deductions and allowances for those over- income households paying rent based on their income.
	4350.3 Chapter 5 section 2	HB-2 3560 5.9 C	HOME Guide Attachment 3-4

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Each of the deductions is described below in detail.

1. Dependent Deduction



A household receives a deduction of \$480 (adjusted for inflation after HOTMA) for each household member who is under 18 years of age (except foster children and adults), a person with disabilities or a full-time student of any age. A full-time load is defined by the institution where the student is enrolled.

It is not necessary for a member of the household to have legal custody of a dependent to receive the dependent deduction.

Some household members may never qualify as dependents regardless of age, disability, or student status. The head of the household, the spouse, and the co-head may never qualify as dependents. A foster child, foster adult, an unborn child, a child who has not yet joined the household or a live-in aide also may never be counted as a dependent.

When more than one household shares custody of a child and both live in assisted housing, only one household at a time can claim the dependent deduction for that child. The household with primary custody or with custody at the time of the annual recertification receives the deduction. If there is a dispute about which household should claim the dependent deduction, the owner should refer to available documents such as copies of court orders or an IRS return showing which household has claimed the child for income tax purposes.

#### 2. Child Care Deduction

Anticipated expenses for the care of children under age 13 (including foster children) may be deducted from annual income if all the following are true:

- The care is necessary to enable a household member to work, seek employment, or further his/her education.
- The household has determined there is no adult household member capable of providing care during the hours that care is needed.
- The expenses are not paid to a household member living in the unit.
- The amount deducted reflects reasonable charges for child care.
- The expense is not reimbursed.
- Child care expenses incurred to permit a household member to work must not exceed the amount earned by the household member made available to work during the hours for which child care is paid.
- While a household member is at school or looking for work, the expense for child care is not limited.
- Child care attributable to the work of a full-time student (except for head, spouse, co-head) is limited to not more than \$480.
- Child care payments made on behalf of a minor who is not living in the unit cannot be deducted.



Note about the below two deductions: If a household is entitled to both disability assistance expenses and unreimbursed medical expenses, the required 3% (10% after HOTMA) of household income expenditure is deducted from the total of both allowed expenses, not to each. Also, it is important to carefully review the collected expenses to be sure no expense has been inadvertently included in both categories.

#### 3. Deduction for Disability Assistance Expense

Households are entitled to a deduction for unreimbursed, anticipated costs for "attendant care" and "auxiliary apparatus" for each household member who is a person with disabilities, to the extent these expenses are reasonable and necessary to enable any household member 18 years of age or older who may or may not be the member who is a person with disabilities to be employed. This deduction is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds 3% of the household member or members who are enabled to work. If the disability assistance enables more than one person to be employed, the owner must consider the combined incomes of those persons. For example, if an auxiliary apparatus enables a person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

**Auxiliary apparatus** includes items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a sight-impaired person to read or type, but only if these items are directly related to permitting the disabled person or other household member to work.

- The cost of maintenance and upkeep of an auxiliary apparatus is considered a disability assistance expense (e.g., the veterinarian costs and food costs of a service animal; the cost of maintaining the equipment that is added to a car, but not the cost of maintaining the car).
- In addition to anticipated, ongoing expenses, one-time nonrecurring expenses of a current resident for auxiliary apparatus may be included in the calculation of the disability assistance expense deduction after the expense is incurred. These expenses may be added to the household's total disability assistance expense during the following annual recertification.



Attendant care includes but is not limited to reasonable expenses for home medical care, nursing services, housekeeping and errand services, interpreters for hearing-impaired, and readers for persons with visual disabilities.

When the same provider takes care of children and a disabled person over age 12, the owner must prorate the total cost and allocate a specific cost to attendant care. The sum of both child care and disability assistance expenses cannot exceed the employment income of the household member enabled to work.

#### 4. Health and Medical Expense Deduction

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 years old or is a person with disabilities (elderly/disabled households).



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If the household is eligible for a medical expense deduction, owners must include the unreimbursed medical expenses of all household members, including the expenses of nonelderly adults or children living in the household.

- Medical expenses include all expenses the household anticipates incurring during the 12 months following certification/recertification that are not reimbursed by an outside source, such as insurance.
- The owner may use the ongoing expenses the household paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.
- The medical expense deduction is that portion of total medical expenses that exceeds 3% (10% after HOTMA) of annual income.
- In addition to anticipated expenses, past one-time nonrecurring medical expenses that have been
  paid in full may be included in the calculation of the medical expense deduction for current
  tenants at an initial, interim or annual recertification. Past one-time nonrecurring medical
  expenses that have been paid in full are not applicable when calculating anticipated medical
  expenses at move-in. If the tenant is under a payment plan, the expense would be counted as
  anticipated.

These expenses may be added to the household's total medical expenses at the upcoming annual recertification

When a household is making regular payments over time on a bill for a past one-time medical expense, those payments are included in anticipated medical expenses. However, if a household has received a deduction for the full amount of a medical bill it is paying over time, the household cannot continue to count that bill even if the bill has not yet been paid.

Not all elderly or disabled applicants or participants are aware that their unreimbursed expenses for medical care are included in the calculation of adjusted income for elderly or disabled households. For that reason, it is important for owners to ask enough questions to obtain complete information about allowable medical expenses.



#### 5. Elderly Household Deduction

An elderly/disabled in which the head, spouse, or co-head (or the sole member) is at least 62 years of age or a person with disabilities receives a \$400 household deduction. Because this is a "household deduction" each household receives only one deduction, even if both the head and spouse are elderly or disabled.





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#### **Deductible and Nondeductible Medical Expenses**

HUD Handbook HUD 4350.3 REV-1 Exhibit 5-3, HB-2 6.9 C, Exhibit 6-1, Attachment 6-C

EXHIBIT 5-3		
MEDICAL EXPENSE	MAY INCLUDE*	
Services of recognized health care professionals.	Services of physicians, nurses, dentists, opticians, mental health practitioners, osteopaths, chiropractors, Christian Science practitioners, and acupuncture practitioners.	
Services of health care facilities; laboratory fees, X-rays and diagnostic tests, blood, oxygen.	Hospitals, health maintenance organizations (HMOs), laser eye surgery, out-patient medical facilities, and clinics.	
Alcoholism and drug addiction treatment.		
Medical insurance premiums.	Expenses paid to an HMO; Medicaid insurance payments that have not been reimbursed; long-term care premiums (not prorated).	
Prescription and nonprescription medicines.	Aspirin, antihistamine only if prescribed by a physician for a particular medical condition,	
Transportation to/from treatment and lodging.	Actual cost (e.g., bus fare) or, if driving in a car, a mileage rate based on IRS rules or other accepted standard.	
Medical care of permanently institutionalized family member IF his/her income is included in Annual Income.		
Dental treatment.	Fees paid to the dentist; x-rays; fillings, braces, extractions, dentures.	
Eyeglasses, contact lenses.		
Hearing aid and batteries, wheelchair, walker, artificial limbs, Braille books and magazines, oxygen and oxygen. Equipment	Purchase and upkeep (e.g., additional utility costs to resident because of oxygen machine [in properties with resident paid utilities only]).	
Attendant care or periodic medical care.	Nursing services, assistance animal and its upkeep.	
Payments on accumulated medical bills.	Scheduled payments.	

\* Or any other medically necessary service, apparatus, or medication, as documented by third-party verification.



**NOTE:** verify medical, and disability expenses with copies of the bill or printouts from the pharmacy.



EXHIBIT 5-3		
MEDICAL EXPENSE	MAY <u>NOT</u> INCLUDE	
Cosmetic surgery	Do not include in medical expenses amounts paid for unnecessary cosmetic surgery. This applies to any procedure that is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease. Procedures such as face-lifts, hair transplants, hair removal (electrolysis), and liposuction generally are not deductible. However, if medical complications, e.g., infections, etc., occur as a result of the procedure that requires medical treatment, the medical treatment expenses would be treated as a medical expense deduction. Amounts paid for cosmetic surgery may be deducted if necessary to improve a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease.	
Health club dues	Do not include in medical expenses the cost of membership in any club organized for business, pleasure, recreation, or other social purpose, such as health club dues, YMCA dues, or amounts paid for steam baths for general health or to relieve physical or mental discomfort not related to a particular medical condition.	
Household help	Do not include in medical expenses the cost of household help, even if such help is recommended by a doctor. However, certain expenses paid to a person providing nursing-type services may be deductible as medical costs. Also, certain maintenance or personal care services provided for qualified long-term care can be included in medical costs.	
Medical savings account (MSA)	Do not deduct as a qualified medical expense amounts contributed to an Archer MSA.	
Nutritional supplements, vitamins, herbal supplements, "natural medicines"	Do not include in medical expenses the cost of nutritional supplements, vitamins, herbal supplements, "natural medicines," etc., **unless they are recommended in writing by a medical practitioner licensed in the locality where practicing. These items must be recommended as treatment for a specific medical condition diagnosed by a physician or other health care provider licensed to make a diagnosis in the locality where practicing. Otherwise, these items are taken to maintain ordinary good health, and are	
Personal use items	Do not include in medical expenses an item ordinarily used for personal, living, or family purposes unless it is used primarily to prevent or alleviate a physical or mental defect or illness. For example, the cost of a wig purchased upon the advice of a physician for the mental health of a patient who has lost all of his or her hair from disease or incontinence supplies can be included with medical expenses	
Nonprescription medicines	Do not include in medical expenses nonprescription medicines unless they are recommended in writing by a medical practitioner licensed in the locality where practicing. These items must be recommended as treatment for a specific medical condition diagnosed by a physician or other health care provider licensed to make a diagnosis in the locality where practicing.	

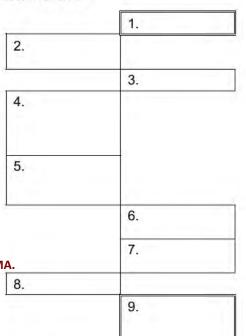


#### Exhibit 4.3 – Sample Format for Calculating Part 5 Adjusted Income

- 1. Enter Annual Income.
- 2. Enter the number of family members (excluding head or spouse) under 18, disabled, or full-time students.
- 3. Multiply line 2 by \$480. Adjusted for inflation after HOTMA.
- 4. If a family member is enabled to work or further their education as a result of child care expenses, enter the <u>unreimbursed</u> annual child care expenses (reasonable child care expenses for children age 12 and under).
- 5. If the family member was enabled to <u>work</u> as a result of the child care expenses, enter that family member's annual <u>employment income</u>.
- 6. If an amount is reported in Line 5, enter the lesser of Lines 4 or 5. Otherwise, enter the amount in Line 4.
- 7. If the household qualifies as an elderly and/or disabled household, enter \$400. \$525, adjusted for inflation after HOTMA.
- 8. Add Lines 3, 6, and 7.

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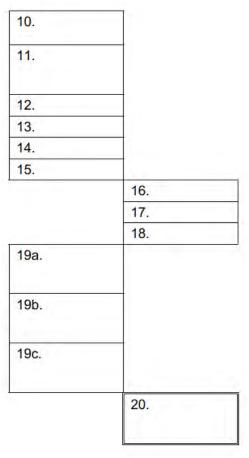
9. If this household has no unreimbursed disability assistance or medical expenses, subtract Line 8 from Line 1. This is **Adjusted Income** for this household without these expenses.



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#### FILL IN LINES 10 THROUGH 20 IF THE FAMILY HAS UNREIMBURSED DISABILITY ASSISTANCE OR MEDICAL EXPENSES

- 10. Enter <u>unreimbursed</u> annual disability assistance expenses.
- 11. Enter the annual <u>earned income</u> of the family member enabled to work as a result of unreimbursed disability assistance expenses.
- 12. Enter the lesser of Lines 10 or 11.
- 13. Enter unreimbursed annual medical expenses.
- 14. Add Lines 12 and 13.
- 15. Multiply Line 1 by 0.03. 0.1 after HOTMA.
- 16. Subtract Line 15 from Line 12. If negative, enter 0.
- 17. Subtract Line 15 from Line 13. If negative, enter 0.
- 18. Subtract Line 15 from Line 14. If negative, enter 0.
- 19a. If the household reported <u>only</u> unreimbursed disability expenses but <u>no</u> unreimbursed medical expenses, add Lines 8 and 16.
- 19b. If the household reported <u>only</u> unreimbursed medical expenses but <u>no</u> unreimbursed disability expenses, add Lines 8 and 17.
- 19c. If the household reported <u>both</u> unreimbursed disability expenses <u>and</u> unreimbursed medical expenses, add Lines 8 and 18.
- 20. Subtract either Line 19a, 19b, or 19c from Line 1. This is Adjusted Income for this household *with* these expenses.



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#### File and Physical Inspections

**Files.** The 811-monitoring agency will conduct a Management Occupancy Review (MOR). Generally, pending further guidance, they will model it after the HUD MOR used for Section 8 and other programs. Form HUD-9834 may be used with two sections (Marketing/Vacancy and the Financial) removed, as they don't apply to Section 811.

**Physical.** Full HUD REAC inspections are not required for 811. For new construction, the 811 agency will conduct any inspection. Thereafter an NSPIRE inspection will be conducted every 3 years. These would be the same type of inspection that is done for the HOME program units, except that under the HOME rules, only a sampling of units is inspected. Under the 811 program, all of the program units must be inspected.

#### Affirmative Marketing

#### 4350.3 4-12, Appendix 1

An Affirmative Fair Housing Marketing Plan (AFHMP) must be in place for properties built after February 1972. Properties built before then do not need a written plan, but they must still be marketed affirmatively. The plan is on form HUD-935.2A. It provides a format that helps develop a plan to ensure that all applicants are treated according to Fair Housing principles. It also spells out ways that the property will be marketed to attract applicants who are least likely to apply. This includes, for example, those who are not a high-concentration racial or ethnic group in the neighborhood.



The owner's responsibility to market to those least likely to apply includes

marketing to populations that have limited proficiency in english. The plan must be approved by HUD. It also must be updated every 5 years. Any major demographic changes must be analyzed to see if the plan needs any adjutment. During on-site monitoring reviews the 811 monitor will check to be sure that the plan is being followed.

#### 811 and VAWA

Section 811 programs are covered under the VAWA statute. HUD forms should be used.

#### LIHTC and Rural Development Housing

See the "Multiple Program Guide" in the Session Materials.

