

Housing Authority of the County of San Diego
HOME and HOPWA Programs

COVID-19 Temporary HUD Waiver Policy

Effective Date:

May 26, 2020

Purpose:

The purpose of this notice is to provide information regarding:

- CARES Act HUD Waivers for HOME; and
- CARES Act HUD Waivers for HOPWA.

Background

On 3-31-2020, HUD issued a memorandum providing regulatory waivers of certain HOPWA and other Community Planning and Development (CPD) program requirements to prevent the spread of COVID-19 and provide additional supports to eligible individuals and families who are economically impacted by COVID-19.

On 4-10-2020, HUD issued a memorandum providing regulatory waivers to certain HOME program requirements to prevent the spread of COVID-19 and provide additional supports to eligible individuals and families who are economically impacted by the coronavirus COVID-19.

On 12-4-2020, HUD issued a memorandum providing revisions and extensions to certain statutory suspensions and regulatory waivers outlined in the April 2020 Memo through September 30, 2021 (the “extended waiver period”) and adds a new statutory suspension and new regulatory waivers for the HOME program.

On 3-31-21, HUD issued a memorandum specific to several CPD programs, including HOPWA, providing waiver extensions until 6-30-2021.

On 6-30-21, HUD issued a memorandum specific to several CPD programs, including HOPWA, providing various waiver extensions.

In accordance with 24 CFR 5.110, HUD may, upon a determination of good cause and subject to statutory limitations, waive regulatory provisions. Additional regulatory waiver authority is provided in 24 CFR 91.600. These regulatory provisions provide HUD the authority to make waiver determinations for the ESG, CoC, and HOPWA Programs and consolidated planning requirements for all CPD formula programs.

HOME INVESTMENT PARTNERSHIP PROGRAM (HOME)

Pursuant to the authority provided in 24 CFR 5.110, HUD waives and the HACSD is adopting the waivers of the HOME regulatory requirements specified below.

HOME Source Documentation for Income

24 CFR 92.203(a)(1)

These sections of the HOME regulations require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months.

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This waiver permits HACSD to use self-certification of income in lieu of source documents to determine eligibility for HOME assistance of persons requiring emergency assistance related to COVID-19. Many families affected by actions taken to reduce the spread of COVID-19 will not have documentation that accurately reflects current income and will not be able to qualify for HOME assistance if the requirement remains effective.

This waiver applies to:

1. Individuals and families who have lost employment or income either permanently or temporarily due to COVID-19 and are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program, and
2. Homeless individuals and families who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program.

Self-Certification must consider all income, including unemployment and emergency benefits the applicant will receive excluding emergency tax relief payments.

However, per the 12-4-2020 memorandum the Department determined that the FPUC benefit was temporary in nature and excluded from income under 24 CFR 6.609(c)(9) and the Lost Wages Supplemental Payment Assistance is excluded from income under the Stafford Act, in accordance with 24 CFR 5.609(c)(17). The FPUC benefit and Lost Wages Supplemental Payment Assistance therefore must not be taken into consideration when determining eligibility or level of TBRA subsidy under the HOME program. In addition a PJ may choose to redetermine income, according to its policy, in cases where the income self-certification included the FPUC benefit or Lost Wages Supplemental Payment Assistance and resulted in the ineligibility of an applicant.

- **Federal Pandemic Unemployment Compensation (FPUC)**

The additional \$600 weekly benefit allowed under Section 2104 of the CARES Act is considered “temporary, sporadic and non-recurring” and shall not be counted as income. Other unemployment benefits provided under the CARES Act or Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) must still be included as income as the Department determined the PUA to be regular unemployment insurance under 24 CFR 5.609(b)(5) and PEUC to be an extension of regular unemployment insurance benefits.

- **Lost Wages Supplemental Payment Assistance**

The additional \$400 weekly benefit authorized under the “Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019” is excludable pursuant to 24 CFR 6.609(c)(17) as an amount specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. This includes “Major disaster and emergency assistance received by individuals and families under the Robert T Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance organizations (42 U.S.C.

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5155(d)).” As the Lost Wages Supplemental Payment Assistance from FEMA and the required state match are both ‘major disaster and emergency assistance received by individuals and families’ under the Stafford Act, HUD has determined the assistance to be excludable from income.

Onsite rent and income reviews must be conducted within 120 days from the end of the waiver relief period. Income certifications must be included in each project file.

As of 4/30/2020 HACSD will adopt this waiver using verification methods in the following order: 1) Verification submitted with initial intake, 2) Written third-party verification available to the participant, 3) Signed self-certification form by mail, fax, or email, 4) Email declaration, and 5) Oral certification and declaration of income received by phone with concurrent documentation by HACSD staff.

This waiver remains in effect through September 30, 2021.

Initial and Annual Inspection of Units Occupied by Recipients of HOME Tenant-Based Rental Assistance (TBRA). [24 CFR 92.504(d)(1)(iii), 24 CFR 92.209(i)]

These provisions require PJs to initially inspect each unit to be occupied by a recipient of HOME TBRA and annually re-inspect each unit occupied by a recipient of HOME TBRA.

Delaying this requirement will protect the health of both inspectors and TBRA tenants by observing physical distancing recommendations to limit the spread of COVID-19.

The waiver is applicable to initial and annual HQS inspections required to occur from the date of the memorandum (April 10, 2020) through the end of the extended waiver period (September 30, 2020).

HACSD is not required to inspect for compliance with HQS in accordance with 24 CFR 982.401. HACSD shall make reasonable efforts to address any tenant-reported health and safety issues during the waiver period. At the conclusion of the extended waiver period, all housing occupied by households receiving HOME TBRA must meet the housing quality standards (HQS) at 24 CFR 982.401. However, this waiver does not apply to the requirements at 24 CFR 35.1215. Consequently, units built before 1978 must undergo visual evaluation and paint repair in accordance with 24 CFR Part 35, subpart M.

As of 4/30/2020 HACSD is adopting this waiver and following its interim HQS policy for HCV to delay scheduled annual inspections and will continue to address tenant-reported health and safety issues during the waiver period according to the Interim HQS Inspection Policy.

HACSD has been scheduling inspections that were delayed or conducted using alternative requirements as early as 7-1-2020. Inspectors will use a contactless inspection process that will include health screening, personal protective equipment, sanitizing and social distancing.

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HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)

Pursuant to the authority provided in 24 CFR 5.110, the Secretary waives and the HACSD is adopting the waivers of the HOPWA regulatory requirements specified below.

HOPWA – Self-Certification of Income and Credible Information on HIV Status

[24 CFR 574.530, Recordkeeping]

Source documentation for income and HIV status determinations must be maintained detailing the eligibility determination of a family to receive HOPWA assistance.

This waiver will permit HOPWA grantees and project sponsors to rely upon a family member's self-certification of income and credible information on his or her HIV status (such as knowledge of the individual's HIV-related medical care) in lieu of source documentation to determine eligibility for HOPWA assistance of families and grantees affected by COVID-19.

This waiver is in effect for recipients who require written certification of the household seeking assistance of their HIV status and income, and agree to obtain source documentation of HIV status and income eligibility by September 30, 2021.

As of 4/16/2020 HACSD is adopting this waiver allowing self-certification of income using verification methods in the following order: 1) Verification submitted with initial intake, 2) Written third-party verification available to the participant, 3) Signed self-certification form by mail, fax, or email, 4) Email declaration, and 5) Oral certification and declaration of income received by phone with concurrent documentation by HACSD staff.

As of 4/16/2020 HACSD is adopting this waiver allowing written certification of HIV status in lieu of a source document for new HOPWA selections as needed.

HOPWA – FMR Rent Standard

[24 CFR 574.320(a)(2)]

Rent Standard for Tenant-Based Rental Assistance (TBRA)

Grantees must establish rent standards for their tenant-based rental assistance programs based on FMR (Fair Market Rent) or the HUD approved community-wide exception rent for unit size. Generally, the TBRA payment may not exceed the difference between the rent standard and 30 percent of the family's adjusted income.

This waiver of the FMR rent standard limit permits HOPWA grantees to establish rent standards, by unit size, that are reasonable, and based upon rents being charged for comparable unassisted units in the area, taking into account the location, size, type, quality, amenities, facilities, management and maintenance of each unit. Grantees, however, are required to ensure the reasonableness of rent charged for a unit in accordance with §574.320(a)(3).

This waiver is required to expedite efforts to identify suitable housing units for rent to HOPWA beneficiaries and HOPWA-eligible families who have been affected by COVID-

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19, and to provide assistance to families who must rent units at rates that exceed the HOPWA grantee's normal rent standard as calculated in accordance with §574.320(a)(2).

The FMR requirement continues to be waived until December 31, 2021.

As of 4/16/2020 HACSD is adopting this waiver for use on an as needed basis.

HOPWA – Property Standards for TBRA

[24 CFR 574.310(b), HQS]

Property Standards for Tenant-Based Rental Assistance (TBRA)

This section of the HOPWA regulations provides that units occupied by recipients of HOPWA TBRA meet the Housing Quality Standards (HQS) established in this section.

This waiver is required to enable grantees and project sponsors to quickly meet the critical housing needs of the many eligible families affected by COVID-19 while also minimizing the spread of the coronavirus.

This waiver is in effect until September 30, 2021 for recipients and project sponsors that are able to meet the following criteria:

1. The recipient or project sponsor is able to visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and
2. The recipient or subrecipient has written policies to physically reinspect the units not previously physically inspected by December 31, 2021.

As of 4/16/2020 HACSD is adopting this waiver and following its interim HQS policy for HCV as follows:

- Suspend/delay annual inspections;
- Conduct initial inspections for vacant units according to existing policy; and
- Conduct initial inspections for occupied units for households leasing in place using visual technology.

Inspections delayed or using alternative inspection methods will be re-inspected no later than 3 months after health officials determine special measures to prevent the spread of COVID-19 are no longer necessary, or any amended date as authorized by HUD.

In order to meet the requirement to conduct all physical inspections for units affected by this waiver, HACSD will begin to schedule inspections that were delayed or conducted using alternative requirements as early as 7-1-2020. Inspectors will use a contactless inspection process that will include health screening, personal protective equipment, sanitizing and social distancing.