

**The Public Housing Community Service/Self-Sufficiency
Requirement in Massachusetts:
Some Relevant Materials**

1.	Federal community service/self-sufficiency statute, 42 U.S.C. § 1437j(c)	1
2.	HUD community service/self-sufficiency regulations, 24 C.F.R. § 960.600 et seq.	4
3.	Excerpts from preamble to final community service self-sufficiency rule, 65 Fed Reg. 16692 (March 29, 2000)	6
4.	HUD definition of “economic self-sufficiency program,” 24 C.F.R. § 5.603	13
5.	HUD definition of “family,” 24 C.F.R. § 5.403	14
6.	TANF definition of “work activities,” 42 U.S.C. § 607(d)	16
7.	Reinstatement of Community Service and Self-Sufficiency Requirement, HUD Notice PIH 2003-17(HA) (June 20, 2003)	17
8.	Questions and Answers on the Community Service and Self-Sufficiency Requirement, Implementation, HUD Admission and Occupancy FAQ, http://www.hud.gov/offices/pih/phr/about/ao_faq.cfm	22
9.	TAFDC Exemptions from Time-Limited Benefits and Work Program, 106 C.M.R. §§ 203.100; 203.400	30
10.	TAFDC disability standard, 106 C.M.R. § 203.530	33
11.	MassHealth Permission to Share Information Form to verify receipt of MassHealth on basis of disability	34

(c) Community service requirement

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall--

(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or

(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g) of this section) for 8 hours per month.

(2) Exemptions

The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who--

(A) is 62 years of age or older;

(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997) [FN1] ;

(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) Annual determinations

(A) Requirement

For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 1437d(l)(1) of this title, review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) Due process

Such determinations shall be made in accordance with the principles of due process and on a

nondiscriminatory basis.

(C) Noncompliance

If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency--

(i) shall notify the resident--

(I) of such noncompliance;

(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); and

(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident's lease will not be renewed; and

(ii) may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) Ineligibility for occupancy for noncompliance

A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) Inclusion in plan

Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) Geographic location

The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) Prohibition against replacement of employees

In carrying out this subsection, a public housing agency may not--

(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

(B) supplant a job at any location at which community work requirements are fulfilled.

(8) Third-party coordinating

A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

(b) *Occupancy in public housing.* For the purpose of increasing security for residents of a public housing development, the PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. The PHA must include in the PHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

Subpart F—When Resident Must Perform Community Service Activities or Self-Sufficiency Work Activities

SOURCE: 65 FR 16729, Mar. 29, 2000, unless otherwise noted.

§960.600 Implementation.

PHAs and residents must comply with the requirements of this subpart beginning with PHA fiscal years that commence on or after October 1, 2000. Unless otherwise provided by §903.11 of this chapter, Annual Plans submitted for those fiscal years are required to contain information regarding the PHA's compliance with the community service requirement, as described in §903.7 of this chapter.

§960.601 Definitions.

(a) *Definitions found elsewhere.*

(1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *public housing, public housing agency (PHA).*

(2) *Definitions concerning income and rent.* The following terms are defined in part 5, subpart F of this title: *economic self-sufficiency program, work activities.*

(b) *Other definitions.* In addition to the definitions in paragraph (a) of this

section, the following definitions apply:

Community service. The performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Exempt individual. An adult who:

(1) Is 62 years or older;

(2)(i) Is a blind or disabled individual, as defined under 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or

(ii) Is a primary caretaker of such individual;

(3) Is engaged in work activities;

(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program; or

(5) Is a member of a family receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

Service requirement. The obligation of each adult resident, other than an exempt individual, to perform community service or participate in an economic-self sufficiency program required in accordance with §960.603.

§960.603 General requirements.

(a) *Service requirement.* Except for any family member who is an exempt individual, each adult resident of public housing must:

(1) Contribute 8 hours per month of community service (not including political activities); or

(2) Participate in an economic self-sufficiency program for 8 hours per month; or

(3) Perform 8 hours per month of combined activities as described in paragraphs (a)(1) and (a)(2) of this section.

(b) *Family violation of service requirement.* The lease shall specify that it shall be renewed automatically for all purposes, unless the family fails to comply with the service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term (see §966.4(1)(2)(i) of this chapter).

§960.605 How PHA administers service requirements.

(a) *PHA policy.* Each PHA must develop a local policy for administration of the community service and economic self-sufficiency requirements for public housing residents.

(b) *Administration of qualifying community service or self-sufficiency activities for residents.* The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make such activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions.

(c) *PHA responsibilities.* (1) The PHA policy must describe how the PHA determines which family members are subject to or exempt from the service requirement, and the process for determining any changes to exempt or non-exempt status of family members.

(2) The PHA must give the family a written description of the service requirement, and of the process for claiming status as an exempt person and for PHA verification of such status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt persons.

(3) The PHA must review family compliance with service requirements, and must verify such compliance annually at least thirty days before the end of

the twelve month lease term. If qualifying activities are administered by an organization other than the PHA, the PHA shall obtain verification of family compliance from such third parties.

(4) The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

(5) The PHA must comply with non-discrimination and equal opportunity requirements listed at §5.105(a) of this title.

§960.607 Assuring resident compliance.

(a) *Third-party certification.* If qualifying activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide signed certification to the PHA by such other organization that the family member has performed such qualifying activities.

(b) *PHA notice of noncompliance.* (1) If the PHA determines that there is a family member who is required to fulfill a service requirement, but who has violated this family obligation (non-compliant resident), the PHA must notify the tenant of this determination.

(2) The PHA notice to the tenant must:

(i) Briefly describe the noncompliance;

(ii) State that the PHA will not renew the lease at the end of the twelve month lease term unless:

(A) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance, and in fact cure such noncompliance in accordance with such agreement; or

(B) The family provides written assurance satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.

(iii) State that the tenant may request a grievance hearing on the PHA determination, in accordance with part 966, subpart B of this chapter, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of such determination.

(c) *Tenant agreement to comply with service requirement.* If the tenant or another family member has violated the service requirement, the PHA may not renew the lease upon expiration of the term unless:

(1) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance by completing the additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over the twelve-month term of the new lease, and

(2) All other members of the family who are subject to the service requirement are currently complying with the service requirement or are no longer residing in the unit.

§ 960.609 Prohibition against replacement of PHA employees.

In implementing the service requirement under this subpart, the PHA may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement.

Subpart G—Pet Ownership in Public Housing

SOURCE: 65 FR 42522, July 10, 2000, unless otherwise noted.

§ 960.701 Purpose.

The purpose of this subpart is, in accordance with section 31 of the United States Housing Act of 1937 (42 U.S.C. 1437z-3), to permit pet ownership by residents of public housing, subject to compliance with reasonable requirements established by the public housing agency (PHA) for pet ownership.

§ 960.703 Applicability.

This subpart applies to public housing as that term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), except that such term does not include public housing developments for the elderly or persons with disabilities. Regulations

that apply to pet ownership in such developments are located in part 5, subpart C, of this title.

§ 960.705 Animals that assist, support, or provide service to persons with disabilities.

(a) This subpart G does not apply to animals that assist, support or provide service to persons with disabilities. PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing, as that term is used in § 960.703, and such animals that visit these developments.

(b) Nothing in this subpart G:

(1) Limits or impairs the rights of persons with disabilities;

(2) Authorizes PHAs to limit or impair the rights of persons with disabilities; or

(3) Affects any authority that PHAs may have to regulate service animals that assist, support or provide service to persons with disabilities, under Federal, State, or local law.

§ 960.707 Pet ownership.

(a) *Ownership Conditions.* A resident of a dwelling unit in public housing, as that term is used in § 960.703, may own one or more common household pets or have one or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the PHA, if the resident maintains each pet:

(1) Responsibly;

(2) In accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations; and

(3) In accordance with the policies established in the PHA Annual Plan for the agency as provided in part 903 of this chapter.

(b) *Reasonable requirements.* Reasonable requirements may include but are not limited to:

(1) Requiring payment of a non-refundable nominal fee to cover the reasonable operating costs to the development relating to the presence of pets, a

refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered, or both;

(2) Limitations on the number of animals in a unit, based on unit size;

(3) Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable State and local law, and prohibitions on individual animals, based on certain factors, including the size and weight of animals;

(4) Restrictions or prohibitions based on size and type of building or project, or other relevant conditions;

(5) Registration of the pet with the PHA; and

(6) Requiring pet owners to have their pets spayed or neutered.

(c) *Restriction.* A PHA may not require pet owners to have any pet's vocal chords removed.

(d) *Pet deposit.* A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits or, if State or local law has no requirements regarding pet deposits, for rental security deposits, if applicable. The PHA shall comply with such applicable law as to retention of the deposit, interest, and return of the deposit or portion thereof to the resident, and any other applicable requirements.

(e) *PHA Plan.* Unless otherwise provided by § 903.11 of this chapter, Annual Plans are required to contain information regarding the PHA's pet policies, as described in § 903.7(n) of this chapter, beginning with PHA fiscal years that commence on or after January 1, 2001.

PART 963—PUBLIC HOUSING— CONTRACTING WITH RESIDENT- OWNED BUSINESSES

Subpart A—General

- Sec.
- 963.1 Purpose.
- 963.3 Applicability.
- 963.5 Definitions.

Subpart B—Contracting with Resident-Owned Businesses

- 963.10 Eligible resident-owned businesses.
- 963.12 Alternative procurement process.

AUTHORITY: 42 U.S.C. 1437 and 3535(d).
SOURCE: 57 FR 20189, May 11, 1992, unless otherwise noted.

Subpart A—General

§ 963.1 Purpose.

The purpose of this part is to enhance the economic opportunities of public housing residents by providing public housing agencies with a method of soliciting and contracting with eligible and qualified resident-owned businesses (as defined in this part) for public housing services, supplies, or construction. The contract award method provided by this part is based on the established procurement procedures set forth in 24 CFR 85.36, with solicitation as provided by these procedures limited to resident-owned businesses. The contract award method provided by this part is not a requirement. It is an alternative procurement method available to public housing agencies, subject to the conditions set forth in this part, and subject to permissibility under State and local laws.

§ 963.3 Applicability.

The policies and procedures contained in this part apply to public housing developments that are owned by public housing agencies (PHAs) and that are covered by Annual Contributions Contracts (ACC) with the Department. Public housing contracts eligible to be awarded under the alternative procurement process provided by this part are limited to individual contracts that do not exceed \$1,000,000. Resident-owned businesses eligible to participate in the alternative procurement process are limited to those that meet the eligibility requirements of § 963.10. The policies and procedures contained in this part are consistent with the objectives of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and similar Federal requirements imposed on public housing programs. (See 24 CFR 941.208(a) and 24 CFR 968.110(a)).

[57 FR 20189, May 11, 1992, as amended at 59 FR 33895, June 30, 1994]

65 FR 16692-01
2000 WL 312262 (F.R.)
(Cite as: 65 FR 16692)

RULES and REGULATIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 880, 881, 884, 886, 891, 960, 966,
984 and 985

[Docket No. FR-4485-F-03]

RIN 2501-AC59

Changes to Admission and Occupancy Requirements in the Public Housing and
Section 8 Housing Assistance Programs

Wednesday, March 29, 2000

*16692 AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements changes to the admission and occupancy requirements for the public housing and Section 8 assisted housing programs made by the Quality Housing and Work Responsibility Act of 1998. These changes concern choice of rent, community service and self-sufficiency in public housing, and admission preferences and determination of income and rent in public housing and Section 8 housing assistance programs. This final rule follows a proposed rule published on April 30, 1999, and takes into consideration the public comments received on the proposed rule.

DATES: Effective Date: The provisions of this rule are effective on April 28, 2000, except for the provisions of §5.661, which will become effective when the information collections it contains receive approval from the Office of Management and Budget. The announcement of approval and the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For the public housing and Section 8 tenant-based housing assistance programs--Patricia Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4224, Washington, DC, 20410; telephone (202) 708-0744, or the Public and Indian Housing Resource Center at 1-800-955-2232.

For the Section 8 project-based programs--Willie Spearmon, Director, Office of Multifamily Business Products, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6138, Washington, DC, 20410; telephone (202) 708-3000.

(With the exception of the telephone number for the PIH Resource Center, these are not toll-free telephone numbers.) Persons with hearing or speech impairments may

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lease for the unit, whose death created a loss of income in the household.

Comment. The statute requires a PHA to "immediately" provide for the family to switch to an income-based rent upon a determination that a family is unable to pay the previously chosen flat rent because of financial hardship. The rule seems to imply that the PHA can make its own policy on switching from a flat rent to income-based; however, it appears that the statute gives the PHA no choice in certain specific instances. HUD needs to clarify this matter.

Response. As stated in the proposed rule, the PHA must switch the family's rental payment immediately if there is a hardship. Though the PHA does not have discretion in determining whether or not to switch a family's rent because of hardship, the PHA does have discretion in establishing its hardship policies, including the time frame in which a family must notify the PHA of a financial hardship, and the need to switch, the type of verification required, etc. When establishing such policies, the PHA should attempt to maintain administrative simplicity while being responsive to unforeseen changes in the family circumstances.

5. Retaining Ceiling Rents

Comment. HUD should provide the option to use ceiling rents beyond three years. HUD's interpretation that the statute limits the retention of ceiling rents is wrong. The 1998 Act explicitly permits PHAs with ceiling rents to retain them, instead of developing flat rents based on neighborhood market rental levels for comparable housing.

Response. HUD is not revising the ceiling rent provision from that provided in the proposed rule. As stated in the proposed rule, PHAs that have already established ceiling rents may continue to use those ceiling rents in lieu of establishing a flat rent for those units for three years. After the three year period, ceiling rents will continue to be allowed as a cap on an income based rent, but not as an alternative to flat rents.

At the time the 1998 Act was enacted, a proposed rule was pending which would have resulted in a requirement that ceiling rents reflect the market in a manner similar to that required by the statute and this regulation for flat rents. That rule would have been finalized accordingly. HUD thus believes that a maximum 3-year time period on retention of ceiling rents as an alternative to flat rents is both reasonable and fully consistent with Congressional intent. Of course, the flat rents will have a similar effect to ceiling rents set at market. In addition, tenants for whom the flat rents are higher than the current ceiling rents always can choose to pay the income-based rent, which will not exceed thirty percent of their adjusted incomes.

K. New Community Service and Self-Sufficiency Requirements for Public Housing (Proposed Rule §§960.603-960.611; Final Rule §§960.601-960.609) (Section 512 of the 1998 Act Amending Section 12 of the 1937 Act)

1. General

Comment. There is a significant administrative burden associated with the new community service and self-sufficiency requirements. The community service requirement is punitive to public housing residents. The requirement to establish a community service program exceeds the PHA's charter. These requirements clearly

constitute an unfunded mandate. HUD must take steps to minimize the burden to the fullest extent without compromising statutory intent.

Response. The new community service and self-sufficiency requirements are statutory. HUD has strived to provide as much flexibility as possible to PHAs to allow them to administer this provision without creating significant burden.

HUD urges implementation of this provision in a manner consistent with its intent, as discussed in the Senate Committee Report (S. Rep. No. 63, 105th Cong., 1st Sess. 1997). The Report states that the provision is not intended to be perceived as punitive, but rather considered as rewarding activity that will assist residents in improving their own and their neighbors' economic and social well-being and give residents a greater stake in their communities.

Comment. The final rule should eliminate the requirement for a PHA to identify and notify each individual of the community service status. The PHA should only be obligated to notify all families of the general requirements and exemptions and place the burden upon the family to notify the housing authority of the required participation of some of its family members, under the pain of lease violation and subsequent eviction actions. Additionally, the final rule should permit the resident to self-certify concerning his or her ability to comply with the community service requirement.

Response. HUD has revised §§960.605 and 960.607 to provide PHAs as much flexibility as possible, while still meeting the statutory requirement. The revision to §960.605(c) requires PHAs to verify compliance annually, at least 30 days before the expiration of the lease term. Self-certification by residents is not acceptable; third party certification must be provided by the entity with whom the resident is working.

There are various community service models that PHAs may want to consider in developing their process for administration of the community service requirement. One of the models is based on a high school requirement for graduation used by high schools, that each student is required to perform a certain number of hours of community service in order to graduate. Similarly, PHAs could provide guidance lists of acceptable activities to residents, along with ways to contact various groups or PHA-sponsored activities that meet the requirement and intent of the community service provision. Residents could, perhaps two months prior to the end of the lease, have a signed certificate from the community service or self-sufficiency activity contact, that in fact they have provided the requisite amount of service.

Additionally, PHAs may, but are not required to, provide advance approval of a community service activity. Advance approval by the PHA may avoid the possibility of refusing to recognize the activity as eligible after it was performed by the resident. Advance approval also may help to ensure that the activity is not performed under conditions that would be considered hazardous, or that the work is not labor that would be performed by the PHA's employees responsible for essential maintenance and property services, or that the work is otherwise unacceptable.

Comment. Residents who are not exempt from community service should be provided a statement of rights and obligations.

Response. The rule provides, at §960.605(c), for written notification of the provisions of the community service requirement to all residents, including a description of the service requirement, who is exempt, and how the exemption will be verified. ***16710**

Comment. A community service contribution of 8 hours a month is too low. The

requirement should be at least 16 hours a month. Another comment suggests that the rule should clarify whether required hours may be accrued.

Response. The statute is clear that the expectation is that each adult member of the family unless otherwise exempt is required to contribute eight hours per month of community service. HUD, however, believes that there should be some flexibility for PHAs to allow individuals, based on circumstances that may prevent the individual from performing the eight hours of community service/economic self-sufficiency each month, to remedy this requirement by performing the activity prior to the renewal of the lease or within a reasonable period determined by the PHA.

Comment. The final rule should go further and require residents to provide verification that they applied for employment in 3 different locations each week.

Response. This suggestion exceeds the requirement imposed by the statute. The rule reflects the statutory requirement to engage in community service.

Comment. The final rule should provide for duly-elected resident councils to administer community service requirements and have community service activities include activities to develop and strengthen the capacity of resident councils. Additionally, the final rule needs to address issue of acceptable community service providers.

Response. As noted earlier in this preamble, HUD's position is to allow PHAs as much flexibility as possible in administering the community service and self-sufficiency requirements. PHAs have the discretion to involve duly-elected resident councils in the administration of community service requirements. Additionally, PHAs are in the best position to determine acceptable community service activities within the broad parameters established. HUD encourages PHAs to involve qualified resident councils where they can facilitate effective implementation of the community service requirement.

Comment. HUD should provide funding from resident initiatives funds for third party administration of the community service requirement.

Response. This comment is outside the scope of this rulemaking. The purpose of this rulemaking is limited to implementing the changes in admission and occupancy requirements made by the 1998 Act.

Comment. With respect to §960.607(d) that provides, in relevant part, "if the noncompliant adult moves from the unit, the lease may be renewed," the rule should explain how a PHA should respond to a report that a covered individual has moved from the household.

Response. HUD believes the following revision to §960.607(c)(2) will address this issue. Section 960.607, which addresses "Assuring Resident Compliance," is revised at the final rule stage to add the following language: "All members of the family who are subject to the service requirement are complying with the service requirement or are no longer residing in the unit."

Comment. There is concern about liability that may be attributable to PHAs for requiring or explicitly approving community service activities. HUD and the Congress must fully consider the implications of this requirement and implement this provision so as to ensure maximum protection for PHAs against possible litigation in this regard.

Response. Again, PHAs are given considerable discretion to implement the community service and self-sufficiency requirements as they determine appropriate, taking into consideration their resident population and local circumstances (e.g., using local

community service providers). PHAs can and should implement community service programs in a prudent manner that will minimize liability.

Comment. The final rule should provide no adverse action against a resident if a community service provider is not responsive. Since PHAs will rely on other agencies for verification of resident community service activity, it is essential that no adverse action be taken against a resident if the third party agency fails to respond to housing authority and resident requests for verification. Another comment suggests that the rule should provide owners and PHAs with the right to require tenants to provide reasonable documentation for activities that meet community service requirements. Another comment suggests that the rule also should require PHAs to provide notice to residents of programs in which the residents may participate to meet the community service requirement. Another comment suggests that the rule should provide that the 8 hour per month requirement can be a combination of the community service and economic self-sufficiency requirements. Another comment suggests that HUD should advise whether it will issue a form of certification to be executed by entities for which residents perform community service activities; if the certification appears valid on its face, may the PHA rely on the certification, or must it take any further action to confirm that the certification is accurate.

Response. The rule strikes the appropriate balance of setting out the basic requirements for community service (and the exemptions) and self-sufficiency, as required by the statute, and providing PHAs with the flexibility to establish the manner in which they will administer these requirements. HUD therefore declines to adopt all of these specific suggestions. The regulation has been revised to clarify that the eight hours can be a combination of the community service and economic self-sufficiency activities to meet the requirement.

Comment. The final rule needs to address the relationship between a person performing community service and the PHA or community service provider. The rule should clearly specify that: the resident performing community service is neither an employee of the PHA nor the community service provider; the resident is not entitled to a stipend, unemployment or worker's compensation or disability benefits.

Response. The statute and this regulation clearly do not create or contemplate an employer/employee relationship between the public housing resident performing community service and the PHA or other community service provider.

2. Exemptions

Comment. Persons with disabilities should not be exempt from community service requirements, because generally all persons with disabilities can perform some type of community service--for example, collating material for a nonprofit agency. In contrast to this first comment were the following comments. Persons with disabilities should be exempt on basis of any existing documentation already in place of their status, and not require new certification. There should not be a dual test to exempt persons with disabilities, i.e., disability and inability to work. The final rule must provide clear standards on how to determine that a person with disabilities is unable to work. The final rule should exempt persons with disabilities who are not yet officially labeled as such. Persons receiving disability assistance under a state disability program should be automatically exempt. *16711 Exempt all persons with disabilities absent clear evidence to the contrary.

Response. The exemption from the community service requirement for persons with disabilities who are also not able to perform community service is statutory. In

terms of documentation of a disability, standards already exist, as provided in the language of §960.601. Existing documentation will be accepted as evidence of a disability, and disabled individuals will be permitted to self-certify that they can or cannot perform community service or self-sufficiency activities. The rule cannot exempt persons with disabilities who are not yet officially classified as such, because documentation is required, as provided in §960.601 and in the statute. Persons receiving disability assistance under a State disability program may be exempt, if they meet the disability definition in section 12 of the 1937 Act and in §960.601.

Comment. Any PHA verification of disability is not consistent with Fair Housing Act regulations.

Response. Verification of disability is not inconsistent with the Fair Housing Act regulations. The new law establishes a community service requirement and provides a definition of person with disabilities that is separate from the definition provided under the Fair Housing Act.

Comment. Documentation that a family is receiving assistance under the TANF Program should be sufficient verification of a family member's exemption from community service requirement. If PHAs verify that the resident family is receiving assistance under the TANF program without sanction for non-compliance with a work activity requirement, there should be no additional verification.

Response. To determine whether a family member is exempt from the community service requirement, the PHA must verify with the welfare agency that the person is complying with a work activities requirement. "Work activities" is broadly defined in Section 407(d) of the Social Security Act (42 U.S.C. 607(d)), and it is expected that individuals participating in these work activities will be exempt from community service requirements under this part. (HUD will make the definition of work activities available through its website and through additional guidance.) Additionally, the PHA has the discretion to adopt the verification process suggested by the commenter.

Comment. Exemption for welfare status will be difficult to determine and enforce because status can change frequently.

Response. To minimize burden to the PHA, HUD suggests that PHAs include the determination of welfare status in the cooperation agreement they enter into with the local welfare agency.

Comment. The final rule should provide that PHAs are to rely on documentary evidence from other agencies bearing responsibility for determining an exemption category. PHAs are not responsible for making an independent determination of status.

Response. Nowhere in the rule is a burden placed on PHAs to determine an exemption category of a family member that is related to welfare programs. That determination is clearly left to welfare agencies, and PHAs are to look to these agencies for the determination of exemption of a family member.

Comment. The process for qualification for an exemption needs to be addressed by the rule. The proposed rule did not adequately address how a PHA would determine whether an adult, non-elderly household member would establish qualification for an exemption from the community service requirement.

Response. As stated in an earlier response, the rule strikes the appropriate balance of setting out the basic requirements for community service (and the exemptions) and self-sufficiency as required by the statute, and providing PHAs with

the flexibility to establish the manner in which they will administer these requirements. HUD declines to establish by rule a process for qualification for an exemption.

Comment. The final rule should exempt primary caregivers; retirees below the age of 62; homemakers; and pregnant women.

Response. The categories of individuals exempt from the community service and self-sufficiency requirements are statutory. HUD does not have the authority to add additional categories.

Comment. The final rule should codify in the regulatory text the preamble language that states that PHAs must establish policies that permit residents to change exemption status during the year if their situation changes. This language should be added to paragraph (2) of §960.605(c).

Response. HUD has included language at §960.605(c) that requires PHAs to establish and describe policies addressing categories of individuals exempt from the service requirement. The PHA policy should include how the PHA will deal with any changes in exemption status.

3. Noncompliance

Comment. The rule should clarify whether a person who has been declared to be required to participate in community service has the right to a grievance hearing to challenge the decision of the PHA.

Response. Section 512 of the 1998 Act contains the requirement of due process for residents when the PHA is reviewing and determining resident compliance with the community service and self-sufficiency requirements.

Comment. Notice of noncompliance and a copy of any agreement for cure should be given to both the noncompliant resident and the leaseholder. It is critical that the leaseholder be included because it is the leaseholder's obligation to ensure compliance.

Response. HUD agrees. The rule (at §960.607(b)) already specifies that the noncompliant adult and the head of household must sign any noncompliance and cure agreement.

L. Reexamination and Verification of Family Income and Composition (Proposed Rule §§5.617 and 960.209; Final Rule §§5.657, 960.257, and 960.259)

Comment. For a family paying income-based rent, it is of paramount importance that the rent is income-based and that an interim reexamination be processed immediately, not "within a reasonable time after the family request." The responsible entity should be required to make the reexamination immediately, or within 5 working days of the family's request to prevent hardship to the family. Another comment suggests that §5.617 should require that any reduction must be effective either in the month in which the family loses income or the following month and that reductions can be retroactive. Another comment suggests the final rule specify how long an interim reexamination must take, as the current regulations do, otherwise delays in decreases in rent can cause tenants to be able to afford rents and be evicted.

Response. HUD does not prescribe the time period between the reexamination and

amount deducted shall reflect reasonable charges for child care. 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.

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

→ *Economic self-sufficiency program.* Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

Extremely low income family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Full-time student. A person who is attending school or vocational training on a full-time basis.

Imputed welfare income. See § 5.615.

Low income family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families,

except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that variations are necessary because of unusually high or low family incomes.

Medical expenses. Medical expenses including medical insurance premiums that are anticipated during the period for which annual income is computed and that are not covered by insurance.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Net family assets. (1) Net cash and other assets after deducting reasonable costs that would be incurred in disposing of property, savings, stocks, bonds, other forms of capital investment including interests in Indian trust and excluding equity accounts in homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is revocable by, or under the control of, any member of the family or household, the value of the trust fund shall not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under § 5.609.

(3) In determining net family assets for PHAs or owners, as applicable, shall include the value of any business or other family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration that is measurable in dollar terms.

(4) For purposes of determining annual income under § 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under

§ 5.380

pet, or the project owner, despite reasonable efforts, has been unable to contact the responsible party or parties, the project owner may contact the appropriate State or local authority (or designated agent of such an authority) and request the removal of the pet.

(c) If there is no State or local authority (or designated agent of such an authority) authorized to remove a pet under these circumstances and the project owner has placed a provision in the lease agreement (as described in § 5.360(c)(2)), the project owner may enter the pet owner's unit, remove the pet, and place the pet in a facility that will provide care and shelter until the pet owner or a representative of the pet owner is able to assume responsibility for the pet, but not longer than 30 days.

(d) The cost of the animal care facility provided under this section shall be borne by the pet owner. If the pet owner (or the pet owner's estate) is unable or unwilling to pay, the cost of the animal care facility may be paid from the pet deposit, if imposed under the pet rules.

PET OWNERSHIP REQUIREMENTS FOR PUBLIC HOUSING PROGRAMS

§ 5.380 Public housing programs: Procedure for development of pet rules.

PHAs that choose to promulgate pet rules shall consult with tenants of projects for the elderly or persons with disabilities administered by them with respect to their promulgation and subsequent amendment. PHAs shall develop the specific procedures governing tenant consultation, but these procedures must be designed to give tenants (or, if appropriate, tenant councils) adequate opportunity to review and comment upon the pet rules before they are issued for effect. PHAs are solely responsible for the content of final pet rules, but must give consideration to tenant comments. PHAs shall send to the responsible HUD field office, copies of the final (or amended) pet rules, as well as summaries or copies of all tenant comments received in the course of the tenant consultation.

Subpart D—Definitions for Section 8 and Public Housing Assistance Under the United States Housing Act of 1937

AUTHORITY: 42 U.S.C. 1437a and 3535(d).

SOURCE: 61 FR 5665, Feb. 13, 1996, unless otherwise noted.

§ 5.400 Applicability.

This part applies to public housing and Section 8 programs.

[61 FR 5665, Feb. 13, 1996, as amended at 61 FR 16715, Mar. 29, 2000]

§ 5.403 Definitions.

Annual contributions contract (ACC) means the written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Applicant means a person or a family that has applied for housing assistance.

Disabled family means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

Displaced family means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Elderly family means a family whose head, spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

Family includes but is not limited to:

(1) A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

(2) An elderly family;

(3) A near-elderly family;

- 14 -

Definitions for Section 8 Public Housing Assistance Under the United States Housing Act of 1937

42 U.S.C. 1437a and 3535(d).
FR 5665, Feb. 13, 1996, unless otherwise indicated.

Eligibility.

applies to public housing assistance programs.

Feb. 13, 1996, as amended at 29, 2000]

Contributions.

Contributions contract (AOC) means a written contract between a PHA under which HUD provides funding for a program under the 1937 Act, and the PHA agrees with HUD requirements for the program.

Family means a person or a family member who is eligible for housing assistance under the 1937 Act. *Family* means a family whose head, spouse, or sole member is a person with disabilities. It may include persons with disabilities, whether, or one or more persons living with one or more aides.

Family member means a family member, or whose sole member is a person displaced by government action, or a person whose home has been extensively damaged as a result of a disaster or otherwise formally recognized by a Federal disaster declaration.

Family member means a family member, or whose sole member is a person at least 62 years of age, or two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

Family member includes but is not limited to a child with or without children, or the temporary absence of a child from the household due to placement in foster care. A child shall not be considered in determining family composition and family size.

Elderly family;
Senior family;

Displaced family;
Displaced family;
The remaining member of a tenant family; and
A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

In aide means a person who resides with one or more elderly persons, or elderly persons, or persons with disabilities, and who:

Is determined to be essential to the care and well-being of the persons; Is not obligated for the support of the persons; and

Would not be living in the unit except to provide the necessary supportive services.

Senior family means a family whose head, spouse, or sole member is a person who is at least 50 years of age below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Person with disabilities:

Means a person who:
Has a disability, as defined in 42 U.S.C. 423;

(i) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(1) Is expected to be of long-continued and indefinite duration;

(2) Substantially impedes his or her ability to live independently, and

(3) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(ii) Has a developmental disability as defined in 42 U.S.C. 6001.

(3) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions resulting from the etiologic agent for acquired immunodeficiency syndrome;

(4) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on drug or alcohol dependence; and

(5) Means "individual with handicaps", as defined in § 8.3 of this title, for purposes of reasonable accommodation.

tion and program accessibility for persons with disabilities.

[61 FR 5665, Feb. 13, 1996, as amended at 63 FR 23853, Apr. 30, 1998; 65 FR 16715, Mar. 29, 2000]

Subpart E—Restrictions on Assistance to Noncitizens

AUTHORITY: 42 U.S.C. 1436a and 3535(d).

§ 5.500 Applicability.

(a) *Covered programs/assistance.* This subpart E implements Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 prohibits HUD from making financial assistance available to persons who are not in eligible status with respect to citizenship or non-citizen immigration status. This subpart E is applicable to financial assistance provided under:

(1) Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);

(2) Section 236 of the National Housing Act (12 U.S.C. 1715z-1) (tenants paying below market rent only) (the Section 236 Program);

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program); and

(4) The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) which covers:

- (i) HUD's Public Housing Programs;
- (ii) The Section 8 Housing Assistance Programs; and
- (iii) The Housing Development Grant Programs (with respect to low income units only).

(b) *Covered individuals and entities*—(1) *Covered individuals/persons and families.* The provisions of this subpart E apply to both applicants for assistance and persons already receiving assistance covered under this subpart E.

(2) *Covered entities.* The provisions of this subpart E apply to Public Housing Agencies (PHAs), project (or housing) owners, and mortgagees under the Section 235 Program. The term "responsible entity" is used in this subpart E to refer collectively to these entities, and is further defined in § 5.504.

42 U.S.C § 607(d)
(d) "work activities" defined

As used in this section, the term "work activities" means--

- (1) unsubsidized employment;
- (2) subsidized private sector employment;
- (3) subsidized public sector employment;
- (4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
- (5) on-the-job training;
- (6) job search and job readiness assistance;
- (7) community service programs;
- (8) vocational educational training (not to exceed 12 months with respect to any individual);
- (9) job skills training directly related to employment;
- (10) education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
- (11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and
- (12) the provision of child care services to an individual who is participating in a community service program.

U. S. Department of Housing and Urban Development

Office of Public and Indian Housing

Special Attention of:	NOTICE PIH 2003-17 (HA)
Regional and Field Office Directors;	
Public Housing Program Directors;	Issued: June 20, 2003
Public Housing Agencies;	
Resident Management Corporations (RMCs)	Expires: June 30, 2004

SUBJECT: Reinstatement of the Community Service and Self-Sufficiency Requirement

A. Purpose:

This Notice discusses the reinstatement of the public housing community service and self-sufficiency requirement authorized under Section 12 of the United States Housing Act of 1937, as amended, (the Act).

The community service and self-sufficiency requirement is intended to assist adult public housing residents in improving their own economic and social well-being and give these residents a greater stake in their communities. The community service and self-sufficiency requirement allows residents an opportunity to “give something back” to their communities and facilitates upward mobility.

B. Background:

Section 12(c) of the Act enacted on October 12, 1998, as section 512 of the Quality Housing and Work Responsibility Act of 1998, contained a community service and self-sufficiency requirement that every adult resident of public housing contribute eight hours of community service each month, or participate in an economic self-sufficiency program for eight hours each month. Regulations for this provision are provided in 24 CFR Subpart F §960.600-609 (see Attachment A).

The Fiscal Year (FY) 2002 HUD/VA Appropriations Act temporarily suspended the community service and self-sufficiency requirement, except for residents of HOPE VI developments. The FY 2003 HUD/VA Appropriations Act signed on February 21, 2003, reinstated this provision by not extending section 432 of the Federal FY 2002 Act, which applied only to funds appropriated for Federal FY 2002.

C. Applicability:

The community service and self-sufficiency requirement applies to all adult residents in public housing except for those exempted under Section 12(c) of the Act. This requirement does not apply to Section 8 tenants.

The public housing tenants exempt from the community service and self-sufficiency requirement are those:

- Age 62 years or older.
- Blind or disabled (as defined under 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c) and who certify that because of this disability they are unable to comply with the service provisions; or primary caretakers of such individuals.
- Engaged in work activities as defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), specified below:
 1. Unsubsidized employment;
 2. Subsidized private-sector employment;
 3. Subsidized public-sector employment;
 4. Work experience (including work associated with the Refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
 5. On-the-job-training;
 6. Job-search and job-readiness assistance;
 7. Community service programs;
 8. Vocational educational training (not to exceed 12 months with respect to any individual);
 9. Job-skills training directly related to employment;
 10. Education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
 11. Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and
 12. The provision of childcare services to an individual who is participating in a community service program.

Public housing agencies (PHAs) are encouraged to consider 30 hours per week as the minimum number of hours for a work activity exemption as described in Section 407(d) of the Social Security Act, and implementing regulations 45 CFR Section 261.31(a)(1)). See Attachment B. PHAs can use reasonable guidelines in clarifying this statutory list of work activities in coordination with the Temporary Assistance to Needy Families (TANF) agency, as appropriate.

- Meet the requirements for being exempt from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program.
- If a member of a family receiving TANF assistance, benefits, or service under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*); or under any other welfare program of the State in which the PHA is located, including a State administered welfare-to-work program and has not been found by the State or other administering entity to be in non-compliance with such program.

D. Noncompliance Requirements (24 CFR §960.605 & §960.607)

A resident who was delinquent in community service hours under the lease in effect at the time of the suspension will still be obligated to fulfill his/her community service and self-sufficiency requirements for FY 2001, provided that the resident was given notice of noncompliance prior to the expiration of the lease in effect at that time.

A copy of that notice of noncompliance should be included with the written notice to residents about the reinstatement of the community service and self-sufficiency requirement. In order to obtain a lease renewal on the expiration of the current lease, residents must be in compliance both with any delinquent community service requirements and current requirements.

PHAs must offer the resident the opportunity to enter into written agreement with the PHA to cure the noncompliance with the community service and self-sufficiency requirements either under the current or delinquent lease. This agreement should include:

- The additional number of hours of community service or self-sufficiency work activities needed to make up the required number of hours under the current lease.
- Assurance that all members of the family who are subject to these requirements are in compliance with the requirements.
- Written assurances satisfactory to the PHA that any noncompliant resident no longer resides in the unit.

A PHA must inform residents that they may request a grievance hearing on the PHA's determination of noncompliance in accordance with Part 966, subpart B and that tenant may exercise any available judicial remedy to seek redress from the PHA's nonrenewal of the lease because of such determination.

A PHA must retain reasonable documentation of service requirement performance or exemption in participant files. A PHA must comply with nondiscrimination listed in 24 CFR 5.105(a).

E. Implementation Deadline:

In order to comply with Section 12, PHAs need to:

- By July 31, 2003, provide to all residents written notice about the reinstatement of the community service and self-sufficiency requirement as outlined in 24 CFR §960.605. This notification must alert residents of the requirement, whether or not they are exempt, and what they need to do in order to comply.
- By October 31, 2003, assure that all affected residents are performing their community service or self-sufficiency requirement.

PHAs can implement the community service and self-sufficiency requirement with any funds available for expenditure during FY 2003.

F. Relationship to PHA Plan:

PHAs do not have to amend already approved FY 2003 Annual Plans or already submitted FY 2003 Annual Plans. However, for such PHAs, the Resident Advisory Board must be informed if there are any significant policy changes to an agency's previous community service and self-sufficiency requirements and next year's Annual Plan submission must contain the required attachment, if applicable.

For the FY 2003 PHA Annual Plan cycle, not yet submitted, PHAs are required to complete Component 12D as part of the PHA Plan submission. Component 12 D requires the PHA to include a description of its community service and self-sufficiency requirement as an attachment to the Annual Plan template. High performing agencies and small PHAs are exempt from completing Component 12 D as part of the streamlined Annual Plan submission, but are still required to implement the community service and self-sufficiency requirement and to have the policy locally available as a supporting document to the Annual Plan.

G. Reference Documents:

- 24 CFR Subpart F §960.601-609 (Attachment A)
- 45 CFR 261.31(a)(i) (Attachment B)
- Community Service and Self-Sufficiency training materials from the "Reforms for the 21st Century Conference" can be obtained by calling the Public and Indian Housing Resource Center at 1-800-955-2232.

H. Contact Information:

If you have any further questions, please contact your local public housing field office or the Public and Indian Housing Information and Resource Center at 1-800-955-2232.

I. Paperwork Reduction

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control numbers 2577-0226. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

/s/
Michael Liu, Assistant Secretary
for Public and Indian Housing

Attachment A, Subpart F, Part 960.600
Attachment B, Page 17886 Federal Register
Vol. 64, No. 69, 4/12/99
(Attachments not included in electronic file)

QUESTIONS AND ANSWERS ON THE COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT

IMPLEMENTATION

- Q1: Do PHAs have to implement the community service and self-sufficiency requirement immediately or wait until their next fiscal year begins?
- A1: By July 31, 2003, PHAs must have provided all residents written notice about the reinstatement of the community service and self-sufficiency requirement as outlined in 24 CFR §960.605. This notification must alert residents of the requirement, whether or not they are exempt, and what they need to do in order to comply. By October 31, 2003, PHAs must assure that all affected residents are performing their community service or self-sufficiency requirement.
- Q2: Do PHAs have to notify all families that the requirement is reinstated, or wait until the family's next recertification before the requirement takes effect at their PHA?
- A2: Yes, PHAs must have notified all families by July 31, 2003, that the community service requirement is being reinstated and assure that by October 31, 2003, that all affected residents are performing community service or engaged in a self-sufficiency activity.
- Q3: Does a PHA have to notify residents who have a disability of the community service and self-sufficiency requirement even though they may be exempt?
- A3: PHAs are required to notify all public housing households of the community service and self-sufficiency requirement, including the process for claiming exemptions.
- Q4: Are section 8 only agencies required to implement community service requirements?
- A4: No, this statutory requirement only applies to residents of public housing.
- Q5: What funds can PHAs use to notify families of the reinstatement of the community service and self-sufficiency requirement?
- A5: PHAs can implement the community service and self-sufficiency requirement with any funds available for expenditure during Federal FY 2003.

PHA PLAN

Q1: Do PHAs who already have an approved Plan have to submit an amendment to the Plan?

A1: No, PHAs do not have to amend already approved FY 2003 Annual Plans or already submitted FY 2003 Annual Plans. However, for such PHAs, the Resident Advisory Board must be informed if there are any significant policy changes to an agency's previous community service and self-sufficiency requirements and next year's Annual Plan submission must contain the required attachment, if applicable.

Q2: What should be covered in the description of community service and self-sufficiency requirement that is attached to an agency's PHA Plan?

A2: PHAs are not required to submit their full local policy on administration of community service and self-sufficiency requirements (pursuant to 24 CFR Part 960, Subpart F) as part of the plan. Rather, the description in the plan may be approximately one page in length, or shorter. It must address the administrative steps taken to implement the requirement (scheduled changes in leases, written description of the service requirement, written notification to residents regarding requirement or exempt status of each adult family member, cooperative agreements with TANF (welfare) agencies to assist the PHA in verifying residents' status, whether the PHA or another entity will administer the program, etc.) and the programmatic aspects of the requirements (including the types of activities that residents who are subject to community service and self-sufficiency requirements may participate in to fulfill their obligations, which partner agencies may offer residents opportunities to fulfill requirements, process to cure noncompliance, etc.).

Q3: What agencies are exempt from completing the PHA Plan template question about community service and self-sufficiency?

A3: High performing agencies and small PHAs are exempt from completing component 12 D as part of the streamlined Annual Plan submission. However, these agencies are still required to implement the community service and self-sufficiency activity and have the policy locally available as a supporting document to the Annual Plan. Also, the community service requirement does not apply to section 8 only agencies.

GENERAL QUESTIONS

Q1: Has the community service and self-sufficiency requirement changed?

A1: No, there have been no changes to the regulation or requirements.

Q2: Is a resident who was delinquent in hours for FY 2001 required to make up these hours?

A2: Yes, a resident would still be obligated to make-up the hours he/she was delinquent in FY 2001 for fulfilling the community service and self-sufficiency requirement provided the resident was given notice of non-compliance prior to the expiration of the lease in effect at the time.

Q3: Are military family members exempt? For how long?

Q3: No, military families are not exempt under section 12(c) of the United State Housing Act, or under 24 CFR 960 Subpart F.

Q4: Can individuals be exempt from the community service requirement and self-sufficiency requirement?

A4: There are numerous exemptions under the law for adult residents who are unable to participate or for whom the provision is infeasible. The exemptions are codified at §960.601, and are as follows:

- Age 62 years or older.
- Blind or disabled, as defined in Notice PIH 2003-17.
- Engaged in work activities (see Q&A 5)
- Meet the requirements for being exempt from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program.
- Members of a family receiving assistance, benefits, or services under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program and has not been found by the State or other administering entity to be in noncompliance with such program.

Q5: If a person is engaged in a work activity, is he or she exempt from the community service and self-sufficiency requirement?

A5: In order for an individual to be exempt from the community service and self-sufficiency requirement because he/she is "engaged in work activities", the person must be participating in an activity that meets one of the following definitions of "work activity" in section 407(d) of the Social Security Act (42 U.S.C. 607(d)):

1. Unsubsidized employment
2. Subsidized private-sector employment
3. Subsidized public-sector employment
4. Work experience (including work associated with the Refurbishing of publicly assisted housing) if sufficient private sector employment is not available
5. On-the-job-training
6. Job-search and job-readiness assistance
7. Community service programs
8. Vocational educational training (not to exceed 12 months with respect to any individual)
9. Job-skills training directly related to employment
10. Education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
11. Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency, in the case of a recipient who has not completed secondary school or received such a certificate
12. The provision of childcare services to an individual who is participating in a community service program

Public housing agencies (PHAs) are encouraged to consider 30 hours per week as the minimum number of hours for a work activity as described in Section 407(d) of the Social Security Act, and implementing regulations 45 CFR Section 261.31(1)(a)(1). PHA can use reasonable guidelines in clarifying this statutory list of work activities in coordination with the Temporary Assistance to Needy Families (TANF) agency, as appropriate.

Q6: Does a resident's community service/economic self-sufficiency activity have to total 96 hours for the year, or does the resident have to perform a mandatory 8 hours each month?

A6: The expectation, in accordance with the statute, is that each adult member of the family, unless otherwise exempt, is required to contribute 8 hours per month of community service, or participate in an economic self-sufficiency activity for 8 hours per month, or a combination of the two that total eight hours per month.

HUD believes that there can be flexibility for PHAs to allow individuals, based on circumstances that may prevent an individual from performing the 8 hours of community service/economic self-sufficiency each month, to remedy this requirement by performing the activity prior to renewal of the lease or within a reasonable period determined by the PHA.

- Q7: If a person is a regular part-time employee working during the regular school session, or is a full-time student but attending summer session classes; would such persons be required to perform community service during the summer break?
- A7: As stated in Q&A 5, HUD encourages PHAs to consider 30 hours as the minimum number of hours for a work activity. If PHAs adopt this policy, a regular part-time employee would likely not be exempt unless the person's educational pursuit meets one of the definitions of work activities (e.g., vocational training) listed in Q&A #5.
- Q8: A seasonal farm worker works six months a year and is off six months a year; does he/she have to perform community service during their off time?
- A8: In order for an individual to be exempt from the community service requirements because he/she is "engaged in work activities," the person must be participating in an activity that meets one of the definitions of "work activity" as found in section 407(d) of the Social Security Act (see Q & A #5). Under these definitions, a seasonal worker who only work six months a year would likely be required to perform community service during their off period. However, final decision would be based on the specific PHA policy that defines work activity based on Section 407(d) of the Social Security Act.
- Q9: Is a parent who teaches his/her children at home (home schooling), exempt from the community service requirement?
- A9: See Q&A 5. However, home schooling may be an eligible community service activity if the PHA determines it as such.
- Q10: Can a PHA exempt a pregnant female who has a doctor's excuse?
- A10: Pregnant female are not included in the list of exempt individuals. A PHA could determine that a pregnant individual is temporarily unable to comply with the community service/economic self-sufficiency requirement. The PHA may require written documentation from a physician stating that the individual is unable to perform community service or participate in an economic self-sufficiency.

As stated earlier, there can be some flexibility for PHAs to allow individuals, based on circumstances that may prevent an individual from performing the 8 hours of community service/economic self-sufficiency each month, to remedy this requirement by performing the activity prior to renewal of the lease or within a reasonable period determined by the PHA.

- Q11: Are stay-at-home parents exempt from the community service and self-sufficiency requirement?
- A11: Stay-at-home parents are not included in the definition of exempt individuals under the Section 12 of the US Housing Act or 24 CFR 960.601. PHAs may wish to consider how best to assist a stay-at-home parent meet his/her community service requirement by babysitting in their home for someone who is performing community service or providing childcare at a resident meeting.
- Q12: Who is responsible for providing childcare for a parent that is required to perform community service?
- A12: Like other training or employment activities, residents need to pursue their own options for childcare.
- Q13: Does exemption under §960.601 exempt an individual who "(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program" apply only to recipients of TANF or other welfare benefits?
- A13: This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Q14: If an individual is receiving unemployment benefits and is obligated to look for work while receiving benefits, does this person has to comply with the 8 hours of community service each month?
- A14: Job search is one of the items listed in the definition of work activities under section 407(d) of the Social Security Act. The PHA must determine if the family is "engaged" in an activity that meets the definition of "work activities" using reasonable guidelines and if it can be verified.
- Q15: If an individual doesn't fulfill his/her community service requirements, will the entire household be subject to eviction?
- A15: A household that includes an individual living in the unit, who did not meet the service requirement and who does not agree to do any additional community service hours, after the initial twelve-month period, is subject to nonrenewal of the lease.

There are alternatives or mitigating circumstances short of sanctions that a PHA can take if an individual family member does not comply.

- The PHA must provide notification to residents of noncompliance in the event the resident is not fulfilling his or her obligation.
- The PHA must describe the noncompliance; state that their lease may not be renewed at the end of the 12-month lease term unless tenant complies with written agreement to cure noncompliance;
- The PHA must offer the tenant an opportunity to enter into a written agreement with the PHA to cure the noncompliance in accordance with the agreement. This agreement should include:
 - The additional number of hours of service or activities needed to make up the total number of hours required over the 12-month lease term of the new lease, and
 - Written assurance that all members of the family who are subject to the service requirement are currently complying with the service requirement, or
 - Written assurances satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.
- The PHA must inform the tenant that they may request a grievance hearing on the PHA's determination of noncompliance in accordance with part 966, subpart B and that the tenant may exercise any available judicial remedy to see timely redress for the PHA's nonrenewal of the lease because of such a determination.

Q16: In the case of very small PHAs (100 units or less) in geographical areas that are fairly rural and limited in their resources because of distance, how does the PHA go about creating community service opportunities for the residents required to perform community service?

A16: HUD suggests that PHAs might want to pattern the community service requirement after the community service requirement some high schools require for graduation in public schools. The school usually does not act as the site for performing the activity but instead may have a list of possible sites in the community or activities that are acceptable to meet the service requirement. Students are given general community guidelines on types of activities, but have great flexibility in determining where and how they will meet the service requirement as long as the activity is unpaid and can be documented. Students are expected to obtain written verification of completion of the activities and the number of hours performed from the participation agency or organization. The student is also required to send this information to the school and to keep track of the total number of hours needed to meet the requirement.

Q17: What action can a PHA take against a resident who forges documents pertaining to community service participation?

A17: PHAs would handle this situation the same as they would handle any type of fraud and PHAs should be very clear about what information is required of the resident. PHAs should also make it very clear to residents that failure to comply with the community service requirement is grounds for nonrenewal of their lease.

Q18: Are PHAs responsible for providing transportation to community service sites?

A18: No, but some communities have resources for low-income families such as reduced bus or subway passes, etc. If residents are doing community service at locations with other residents, organizing car pools is a possibility for resident organizations. Also see information on funding through the Department of Transportation – Access to Jobs Welfare to Work at <http://www.fta.dot.gov/wtw>.

203.100: Exemptions from Time-Limited Benefits and Reduced Need and Payment Standards

(A) Requirements

(1) An assistance unit is exempt from the reduced Need and Payment Standards specified in 106 CMR 204.415 and 204.425 if the grantee meets one of the following exemptions and a grantee is exempt from the time-limited benefits restrictions specified in 106 CMR 203.200 if he or she meets one of the following exemptions:

- (a) a disabled grantee;
- (b) a grantee who is essential to the care of one of the following disabled persons living in the home:
 - 1. a child,
 - 2. the grantee's spouse, sibling or half-sibling,
 - 3. the child's other parent, or
 - 4. the parent(s) or grandparent(s) of: the grantee, the grantee's spouse, or the child's other parent;
- (c) a pregnant woman whose child is expected to be born within the next 120 days;
- (d) a grantee whose youngest child living in the home is under age two and
 - 1. In the assistance unit or would be in the assistance unit except that the child receives SSI, or
 - 2. not in the assistance unit but is the grantee's natural or adopted child and was born before the Family Cap date as defined in 106 CMR 203.300;

A grantee may not claim this exemption for a teen parent's dependent child if that child's parent is living in the home.

- (e) a grantee whose child living in the home is under the age of three months and not included in the assistance unit;
- (f) a teen parent under the age of 20 who is meeting the living arrangement requirements specified in 106 CMR 203.600 and attending school, not beyond high school, full time; or a combination of a full-time GED program and participation in an approved training or employment-related activity for a total of 20 hours per week; or if living in a teen structured living program, meeting the requirements specified in 106 CMR 203.630;

Transitional Aid to Families with Dependent Children
Nonfinancial Eligibility

- (g) an ineligible grantee, except that an ineligible grantee(s) who has a legal obligation to support his or her dependent child(ren) in the assistance unit shall not be exempt unless he or she meets one of the exemptions specified in 106 CMR 203.100(A)(1)(a) through (f) or (h); or he or she cannot work for pay due to his or her alien status; or
- (h) a grantee(s) who is age 60 or older.
- (2) In a two-parent household, both grantees must qualify for one of the exemptions specified in 106 CMR 203.100(A)(1)(a) through (f) or (h) for the assistance unit to be exempt from the reduced Need and Payment Standards specified in 106 CMR 204.415 and 204.425;
- (3) In a two-parent family, only one parent may claim an exemption at 106 CMR 203.100(A)(1)(b), (d), or (e). In addition, in a two-parent family, if one parent claims an exemption under:
- (a) 106 CMR 203.100(A)(1)(a) as a disabled grantee, the other parent may not claim an exemption under 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e) unless there is medical documentation that the disabled grantee is unable to provide care for the person(s) listed in 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e); and/or
- (b) 106 CMR 203.100(A)(1)(c) as a pregnant woman, the other parent may not claim an exemption under 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e) unless there is medical documentation that the pregnant woman is unable to provide care for the person(s) listed in 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e).
- (4) A grantee who is determined to be exempt shall remain exempt until the grantee no longer meets the criteria for an exemption. A grantee must inform the Department as soon as his or her circumstances change in a way that may affect his or her exemption status.
- (5) A grantee(s) who is determined to be nonexempt may appeal this nonexempt status determination. However, if the grantee(s) is found to be nonexempt as a result of the fair hearing, the period during which the appeal decision was pending shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.
- (6) In the event that a grantee(s) claims an exemption but is determined to be nonexempt as a result of the verification process, the period during which the verification process was being completed shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.

203.400: Work Program

(A) Requirements

- (1) A grantee who has received assistance for 60 days is required to work 20 hours per week unless:
 - (a) the grantee is exempt as specified in 106 CMR 203.100;
 - (b) the grantee is caring for, or receives into placement, a foster child who is under age two;
 - (c) a grantee is caring for, or receives into placement, a foster child whose needs exceed a standard level of care (DSS tiers 2, 3 and 4) as determined by the Commissioner of DSS or his or her designee. A waiver of work requirements may be granted by the DTA Commissioner for other foster parent grantees at the request of the DSS Commissioner based on the needs of the foster child; or
 - (d) the grantee has good cause as specified in 106 CMR 701.380.

In a two-parent household, each parent is required to meet the work program requirements unless that parent meets the requirements of 106 CMR 203.400(A)(1) except that 106 CMR 203.400(A)(1)(b) and (c) may apply to only one parent.

- (2) A nonexempt grantee meets the work program requirements by:
 - (a) working in a job for which compensation is paid for 20 or more hours per week;
 - (b) working full-time in a position in the Full Employment Program as specified in 106 CMR 207.180 or participating in an approved Supported Work Program as specified in 106 CMR 207.160;
 - (c) participating in a community service program for 20 hours per week as specified in 106 CMR 207.170, or in the final three months of time-limited benefits, participating in the Structured Job Search Program, as specified in 106 CMR 207.130, or a Department approved activity of 20 hours per week that is expected to result in employment;

203.530: Physical or Mental Incapacity

(A) Requirements

A child is considered deprived of care or support if either parent, both of whom are living in the home, has a physical or mental defect, illness, or impairment which substantially reduces or eliminates the parent's ability to support or care for the child.

- (1) For a parent to be considered incapacitated for TAFDC purposes, his or her incapacity must have existed, or be expected to exist, for a period of 30 days or more; and
 - (a) be a recipient of Supplemental Security Income for disability, or Social Security for disability; or
 - (b) meet or be equivalent to one or more of the Medical Standards specified in 106 CMR 203.540; and/or
 - (c) it must substantially reduce his or her ability to support himself or herself when consideration is given to the vocational factors specified in 106 CMR 203.545.
- (2) If an incapacity has existed or is expected to exist for a period of 12 months, or is expected to lead to death, the applicant or recipient must inquire about and, where appropriate, apply for Social Security disability benefits and/or SSI for disability in accordance with 106 CMR 702.710: SSI Benefits.

(B) Incapacity Determination Process

The determination of whether a parent(s) meets the definition of incapacity shall be made by the agency or organization under contract/agreement with the Department to provide disability evaluation services based on:

- (1) medical and vocational information provided by the applicant or recipient on a form prescribed by the Department;
- (2) medical and vocational information obtained from his or her medical providers;
- (3) the medical standards specified in 106 CMR 203.540; and
- (4) the vocational standards specified in 106 CMR 203.545.

If you want the Division of Medical Assistance to share information about you with another person or organization, please make sure that you fill out all of the numbered sections below to tell us whom to share your information with and what information you want us to share. If you leave ANY sections blank, your permission will not be valid, and the Division of Medical Assistance will not be able to share your information with the person or organization you listed on this form.

SECTION I

Permission is given for the Division of Medical Assistance and its representatives to share information listed in SECTION II about

My name

with the person or organization listed in SECTION III.

(name of MassHealth applicant or member)

SECTION II

The Division of Medical Assistance may share this information. (Check all that apply.)

- Eligibility notices and information about eligibility for and access to MassHealth benefits
- Status and notices about disability determination
- Other: (please be specific)

whether I am receiving MassHealth

or CommHealth on the basis of disability

By giving the Division of Medical Assistance permission to share the information listed above, I am specifically giving permission to share any information about drug and alcohol treatment that is included in that information.

SECTION III

The Division of Medical Assistance may share the information listed in SECTION II with this person or organization:

Name of person or organization:	Local Housing Authority
Street address:	
City, state, zip:	
Telephone number: ()	

SECTION IV

The Division of Medical Assistance may share the information listed in SECTION II for the following reasons: (Please note: If you do not want to list reasons, you may simply write: "at my request.")

at my request

- 34 -

SECTION V

This permission to share information is good until 60 days

SECTION VI

I understand that:

- ◆ the person or organization listed in **SECTION III** may be able to further share the information that the Division of Medical Assistance gives them. If they do, federal and state privacy laws may not protect the information;
- ◆ I may cancel this permission at any time by sending a letter to:

Division of Medical Assistance
Privacy and Security Office
600 Washington Street
Boston, MA 02111;
- ◆ the Division of Medical Assistance cannot take back any information that it shared when it had my permission to do so;
- ◆ if I do not give the Division of Medical Assistance permission to share information, or if I cancel my permission to share information with the person or organization listed in **SECTION III**, MassHealth benefits **will** not be affected in any way; and
- ◆ in certain circumstances, the Division of Medical Assistance may not honor my request to share information.

Signature of applicant/member: <u>X</u>	Date: <u>X</u>
Print name of applicant/member: <u>X</u>	
Applicant/Member SSN: <u>X</u>	Applicant/Member date of birth: <u>X</u>

(Please Note: The applicant's or member's SSN is required if one has been issued, unless he or she is only applying for or getting MassHealth Limited or Children's Medical Security Plan (CMSP) benefits.)

Print name of person filling out this form:	
Signature of person filling out this form:	Date:
Authority of person filling out this form to act on behalf of the applicant/member:	