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MANAGEMENT BULLETIN #015

TO: Owners/Agents of IFA Section 8 Properties

FROM: Roger Brown, Director, Section 8 Contract Administration

DATE: 7 December 2004

SUBJECT: Housing Notice H2004-24 – Income calculation and verification guidance regarding Medicare Prescription Drug Cards and Transitional Assistance

On 6 December 2004 HUD published on its webpage (HUDCLIPS) Housing Notice H2004-24 – Income calculation and verification guidance regarding Medicare Prescription Drug Cards and Transitional Assistance

A copy of the notice follows. The complete notice can be located directly from HUD's webpage at http://www.hudclips.org/sub_nonhud/cgi/nph-brs.cgi?d=HSGN&s1=04-$[no]&op1=AND&SECT1=TXTHLB&SECT5=HSGN&u=./hudclips.cgi&p=1&r=1&f=G .

Please contact your IFA Asset Specialist or your HUD Project Manager with any questions about the implementation of this Housing Notice.

www.ifahome.com

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Public and Indian Housing

Multifamily Housing

Special Attention of:	**NOTICE: PIH-2004-24**
Regional Directors	**NOTICE: H2004-24**
Public Housing Agency Directors; Section 8 and Public Housing Administrators; HUB Directors of Public Housing; PIH Program Center Coordinators; Public Housing Division Directors Resident Management Corporations	Issued: November 10, 2004 Expires: November 30, 2005 Cross References: PIH-2004-11 H04-11
Multifamily Hub Directors; Multifamily Program Center Directors; Multifamily Project Managers; Contract Administrators Owners and Management Agents;	

Subject: Income calculation and verification guidance regarding Medicare Prescription Drug Cards and Transitional Assistance

1. Purpose

This Notice provides guidance to Public Housing Agencies (PHAs) and Project Owners and Management Agents in determining annual and adjusted income in HUD's assisted housing programs under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, Public Law 108-173. This notice has been revised to provide guidance on methods of verification to use in relation to this benefit.

2. Applicability

This Notice applies to PHAs that administer the public housing and the Housing Choice Voucher programs.

This Notice also applies to PHAs and Owners and Management Agents operating HUD assisted units under:

- Section 221 (d)(3) BMIR
- Section 236
- Rental Assistance Program (RAP)
- Section 101 Rent Supplement

- Section 8 New Construction, Substantial Rehabilitation, State Agency, Rural Housing Loan Management Set-Aside and Property Disposition Set-Aside
- Section 202/8
- Section 202 PAC
- Section 202 PRAC
- Section 811 PRAC

Background

On December 8, 2003, President Bush signed into law the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003. Until the new Medicare drug benefit becomes available in 2006, the MMA provides for the issuance of prescription drug discount cards and transitional prescription drug assistance for Medicare beneficiaries who meet the eligibility criteria.

The prescription drug discount card provides Medicare beneficiaries with access to negotiated prices that should be lower than the undiscounted price of prescription drugs.

In addition to the prescription drug discount card, from June through December 2004, Medicare is providing, through the drug discount cards, a $600 subsidy (Transitional Assistance) to Medicare beneficiaries whose incomes are not more than 135 percent of the poverty line and who do not have certain other drug coverage. The unused portion of the $600 credit in 2004 will rollover to 2005. There will be a subsidy of up to $600 in 2005, in addition to any rollover.

More information regarding the Medicare Prescription Drug Discount Card and Transitional Assistance can be found at the Department of Health and Human Services website at:

http://www.cms.hhs.gov/media/press/release.asp?Counter=990

Statutory Requirement

The MMA amended the Social Security Act. Section 1860D-31(g)(6) of the Social Security Act states that "the availability of negotiated prices or transitional assistance under this section shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or amount of benefits under, any other Federal program."

Upon implementation of this statutory requirement, the requisite result is that recipients of this Medicare benefit should experience no decrease in the amount of assistance received from other Federal programs as a result of this Medicare benefit, including HUD's public housing and assisted housing programs. Specifically, public and assisted housing income determinations, assistance or rents must not be affected in any way by this Medicare benefit.

Whom Does This Statutory Requirement Cover?

This statutory requirement will only apply to those HUD program participants and applicants who are (1) receiving Medicare, and (2) have enrolled in the Medicare Prescription Drug Discount Card and Transitional Assistance programs.

The income exclusion and deductions mandated by the MMA will only be applied to those HUD program participants and applicants who are enrolled in at least one of these Medicare benefit programs and are in compliance with the applicable Medicare program rules and regulations.

Generally, family members are eligible for Medicare if they or their spouse worked for at least 10 years in Medicare-covered employment, are 65 years old, and are a citizen or permanent resident of the United States. A person might also qualify for coverage if he or she is a younger person with a disability or with End-Stage Renal disease (permanent kidney failure requiring dialysis or transplant).

Rent Calculations Covered By This Statutory Requirement

A. Annual Income

In calculating annual income for a family, any assistance or benefit received from the Medicare prescription discount card or the transitional assistance must be excluded as annual income for the purpose of calculating any rent or assistance.

B. Adjusted Income

The Medicare prescription drug discount cards and transitional assistance received by a family must be treated as a standard medical deduction when determining the family's medical expense deduction. In this way, families using the prescription drug discount card or receiving transitional assistance will continue to receive a medical deduction for the full cost of the prescription drugs prior to receiving these benefits. PHAs and Owners and Management Agents must verify the cost of the drugs without the Medicare negotiated price benefit for eligible drugs rather than verifying the out-of-pocket cost of the drugs to the tenant.

The standard medical deduction as described at 24 CFR 5.611(a)(3) continues to be the sum of allowable medical expenses that exceed three percent of annual income. Where all or part of the cost for prescription drugs is covered by the Medicare prescription drug discount or transitional assistance, neither the drug discount nor the transitional assistance should be considered a reimbursement for the purpose of calculating the medical expense deduction.

The prescription drug discount card program may have an enrollment fee as high as $30. Any person who receives transitional assistance will have the enrollment fee paid by Medicare. However, any person for whom Medicare does not pay the enrollment fee may claim such fees as a medical deduction.

Who Is Eligible For The Discount Drug Cards And Transitional Assistance?

Family members are eligible for a discount drug card if they are enrolled under Medicare Part A or B, as long as they are not receiving outpatient drug benefits through Medicaid, including waivers under Section 1115 of the Social Security Act.

Medicare will provide a $600 credit subsidy for the purchase of drugs in 2004 and up to an additional $600 credit subsidy in 2005 if (1) a person is eligible for a Medicare drug discount card and (2) if their income is not more than 135 percent of the poverty line ($12,569 for single individuals or $16,862 for married individuals in 2004). To qualify, persons must not receive outpatient drug coverage from other sources, including Medicaid, TRICARE, group health insurance, or Federal Employee Health Benefit Plans (FEHBP) – except if the drug coverage is through a Part C Medicare+ Choice plan or a Medigap plan.

Implementation

The Medicare Prescription Drug Discount Card and Transitional Assistance programs began June 1, 2004. As of June 1, 2004, to limit the number of retroactive adjustments when calculating rent or assistance, PHAs and Owners and Management Agents must:

- Exclude from annual income the $600 transitional assistance subsidy, for applicants and tenants enrolled in the Medicare transitional assistance program, effective the date of receiving the benefits.
- Exclude from annual income any negotiated drug discount pursuant to the Medicare prescription drug discount card.
- In cases where medical expenses are normally deducted from a HUD participant's income, include as a medical deduction the Medicare assistance provided for the cost of drugs pursuant to prescription drug discount cards, negotiated drug price, or transitional assistance subsidies.

Attached is an example of how PHAs and Owners and Management Agents are to implement this new income exclusion and deduction.

Verification

A. Verification of eligibility

PHAs and Owners and Management Agents must verify that the tenant has a Medicare-approved drug discount card. This will determine whether or not the amount of the drug discount and the $600 transitional assistance credit are disregarded as income and in the calculation of the medical deduction. All discount cards approved by Medicare will have a seal with the words "Medicare Approved". The Medicare Approved seal can be viewed at www.medicare.gov at publication 11060. Only discounts received under a Medicare-approved discount drug card are included as a medical expense. Discounts received through other drug discount cards are not eligible to be disregarded.

B. Verification of amount of benefit

PHAs and Owners and Management Agents must verify the amount the individual would have had to pay for each prescription in absence of the negotiated discount provided by the Medicare-approved drug discount card or any payments made by the $600 transitional assistance credit. Verification must also include a determination that the prescription drug is eligible for the discount since not all drugs are eligible. PHAs and Owners and Management Agents must use third party verification when possible or document in the file why such third party verification was not available. To insure that the best estimate is obtained, any of the methods below will be considered as having satisfied HUD's regulatory requirements:

- Information on the receipt the individual receives when paying for a prescription if the pre-discount cost of the drug is included.

- If information for the pre-discount price of the prescription cannot be determined with current information, use receipts showing the amount paid for the prescription prior to the individual enrolling for the Medicare-approved drug discount card.

- If the beneficiary cannot obtain a receipt with the pre-discount cost of the drug, the PHA or Owner and Management Agent may call the pharmacy to obtain the pre-discount cost. The information provided on the Medicare website at www.medicare.gov may also be used to determine the pre-discount cost of the prescription.

- When the pre-discount price of a prescription cannot be determined, use an imputed value of $48.17 per prescription as a substitute for the actual pre-discount price. The imputed value of $48.17 represents the national average cost per prescription for the cash-paying customer in 2003 based on Centers for Medicare and Medicaid Services' Office of the Actuary analysis of data

from IMS Health, National Prescription Audit for 2003. However, in all instances, if a beneficiary can provide satisfactory evidence that he or she paid more than the imputed amount for the prescription, the higher amount is used. An example of the use of the imputed amount is as follows: an individual presents documentation that he/she purchases an eligible drug monthly but the pre-discount cost of the drug cannot be obtained. The individual would receive credit for a medical expense of $48.17 X12 or $578.04 annually. The imputed amount of $48.17 is used for each eligible prescription that cannot be verified through one of the other methods.

C. Other guidance on verification

Additional guidance on verification of expenses is available as follows:

- For Owners and Management Agents: HUD Handbook 4350.3 REV-1.
- For PHAs: Notice PIH 2004-1, dated March 9, 2004, Subject Verification.
- For PHAs: Public Housing Occupancy Guide Book, June 2003, Appendix VIII

PHAs should note that the guidance contained in this Notice supplements the verification guidance in Notice PIH 2004-01 issued March 9, 2004. Further questions should be directed to the local HUD Field Office in your jurisdiction.

Michael Liu, Assistant Secretary for Public and Indian Housing

John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner

Example for

Implementation of the Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003

An elderly household has annual income of $10,000.00. The household is eligible to receive the prescription drug discount card plus the prescription drug transitional assistance. The PHA, Owner or Management Agent has verified that the household has anticipated medical expenses of $1,300.00 of which $600.00 of the expenses will be covered by the prescription drug transitional assistance. The tenant will also receive a negotiated savings on eligible prescription drugs through the use of the drug discount card. What impact will the prescription drug discount card and the prescription drug transitional assistance have on the rent for this household?

		WITHOUT MMA BENEFIT		**WITH MMA BENEFIT**	**IMPACT OF MMA BENEFIT**
Social Security Income	$10,000.00		$10,000.00		
Transitional Assistance	0.00		600.00		
Transitional Assistance Exclusion	0.00		(600.00)		
ANNUAL INCOME		**$10,000.00**		**$10,000.00**	**-0-**
Medical expense deduction is that portion of total medical expense that exceeds 3% of annual income. 3% of annual income = $300.00					
Determine Allowable Medical Deduction					
Transitional Assistance Payment	0.00		600.00		
Prescription Drug Discount Card Negotiated Savings	0.00		200.00		
Out of Pocket Cost to Tenant	1,300.00		500.00		
Total Projected Medical Deduction	1,300.00		1,300.00		
Less 3% of Annual Income	(300.00)		(300.00)		
Allowable Medical Deduction	1,000.00		1,000.00		
Elderly/Disabled Deduction	400.00		400.00		
TOTAL DEDUCTION		**(1,400.00)**		**(1,400.00)**	**-0-**
Adjusted Income		**$8,600.00**		**$8,600.00**	**-0-**
Rent formula: Monthly adjusted income ($8,600.00 / 12)		**$716.67**		**$716.67**	
		x .30		**x .30**	
MONTHLY RENT		**$215.00**		**$215.00**	**-0-**