



Housing Opportunities for Persons With AIDS (“HOPWA”) 2015 Award Manual

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SECTION I: Introduction

Background:

The Housing Opportunities for Persons with AIDS (HOPWA) program was established by the AIDS Housing Opportunity Act of 1992 to address the critical housing needs of low-income Americans living with HIV infection and their families. For over twenty years, HOPWA has funded States, municipalities, and community organizations to plan, develop, and fund housing and supportive services for low-income persons living with HIV/AIDS (PLWHA) who are homeless or unstably housed. Flexibility of HOPWA funding and the wide range of eligible housing activities and support services have enabled grantees to customize programs based on community housing and service needs, special subpopulations served, and other available public and private resources. This resource, in coordination with other leveraged resources, has helped HOPWA recipients to achieve housing stability and to access health care and other support. HIV providers and consumer testimony affirms that this has led to improved health outcomes and quality of life.

HOPWA 20: Housing Innovations in HIV Care; U.S. Department of Housing and Urban Development, Office of HIV/AIDS Housing

Definitions.

Acquired immunodeficiency syndrome (AIDS) or related diseases means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome, including infection with the human immunodeficiency virus (“HIV”).

Administrative costs mean costs for general management, oversight, coordination, evaluation, and reporting on eligible activities. Such costs do not include costs directly related to carrying out eligible activities, since those costs are eligible as part of the activity delivery costs of such activities.

Annual Income is the gross amount of income of all households members over the age of eighteen (18) anticipated to be received within the upcoming twelve month-period.

Balance of State means that portion of Indiana which is served by HUD Continuum of Care IN-502, and which is comprised of 90 Indiana counties, excluding St. Joseph and Marion counties.

Care Coordination means providing assistance necessary to help ensure the effective and efficient organization of and access to services and resources that are appropriate and necessary to meet the needs of a child with special health care needs and the child's family. (*Indiana State Department of Health; 410 IAC 3.2-1-2*)

Case Management Services means services that enable an individual to receive a full range of appropriate services in a planned, coordinated, efficient, and effective manner. (*Division of Disability and Rehabilitative Services; 460 IAC 6-3-9*)

Client means a person or household that has been approved for assistance under the HOPWA program.

Eligible person means a person with acquired immunodeficiency syndrome or related diseases, who is a low-income individual, as defined in this section, and the person's family. A person with AIDS or related diseases or a family member regardless of income is eligible to receive housing information services, as described in §574.300(b)(1). Any person living in proximity to a community residence is eligible to participate in that residence's community outreach and educational activities regarding AIDS or related diseases, as provided in 24 CFR 574.300(b)(9).

Family is defined in 24 CFR 5.403 and includes one or more eligible persons living with another person or persons, regardless of actual or perceived sexual orientation, gender identity, or marital status, who are determined to be important to the eligible person or person's care or well-being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.

Gross Amount means the amount of income before any deductions are taken.

Recipient means any entity that is awarded HOPWA funds through IHCDA.

References:

- Electronic Code of Federal Regulations: Title 24 – Housing and Urban Development
http://www.ecfr.gov/cgi-bin/text-idx?SID=5bc70a84ad3053048cda6e61b952d9e4&tpl=/ecfrbrowse/Title24/24tab_02.tpl
- “HOPWA 20: Housing Innovations in HIV Care.”
<https://www.onecpd.info/resource/2037/hopwa-20-housing-innovations-in-hiv-care/>
- OneCPD Resource Exchange: Housing Opportunities for Persons With AIDS.
<https://www.onecpd.info/hopwa/>
- HUD Technical Guide for Determining Income and Allowances for HOME Program (HUD-1780-CPD)
http://portal.hud.gov/huddoc/19754_1780.pdf
- HUD.gov: Housing Opportunities for Persons With AIDS (HOPWA).
<http://portal.hud.gov/hudportal/HUD?src=/hudprograms/hopwa>
- HUD.gov: Median Family Income, Indiana.
<http://www.huduser.org/portal/datasets/il/il13/in.pdf>
- HUD Limited Denials of Participation Lists:
http://portal.hud.gov/hudportal/HUD?src=/topics/limited_denials_of_participation
- HUD Fair Market Rent Documentation:
<http://www.huduser.org/portal/datasets/fmr.html>
- HUD HOPWA Grantee Oversight Guide
http://www.doh.state.fl.us/disease_ctrl/aids/care/HOPWAOversightGuide_Aug2010.pdf
- Office of HIV/AIDS Housing: HOPWA Rental Assistance Guide
<https://www.onecpd.info/resources/documents/HOPWARentalAssistanceGuidebook.pdf>

SECTION II: Eligibility

Eligibility Criteria

In accordance with 24 C.F.R. 574, IHCD has established the following eligibility requirements for a client to receive HOPWA assistance:

- Client's household must have at least one person living with AIDS or related diseases;
- Client's household must be at or below 80% Area Median Income (AMI) for the county in which the household resides (according to HUD income guidelines);
 - 75% of all households served with HOPWA funding must be at or below 50% Area Median Income;
- Client must receive supportive services and/or care coordination/case management; and
- Client must reside within Indiana during the period of time that it receives HOPWA assistance.

*HUD has determined that persons who are HIV+ without having a diagnosis of AIDS, are eligible for assistance as long as they meet the income criteria.

Supportive Services

Supportive Services, as required by 24 C.F.R. § 574.310(a), must be provided as part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity.

Supportive services includes, but not limited to, health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local, State, and Federal government benefits and services, except that health services may only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members of these individuals.

Income Eligibility Verification

Recipients must include in their verification the income of **all** persons living in the household, regardless of HIV status and/or relationship to the qualifying client, **excepting in situations where the client is sharing housing with a roommate**. In this case, the Recipient is not required to verify the client's roommate's income, but the client will only receive assistance for the portion of housing costs for which they are responsible.

In the event that a client has no income, the Recipient is required to ensure that the client completes a "Zero-Income Certification."

A. Income Eligibility Requirements:

All households receiving HOPWA must be income eligible. Therefore, the income verification process must be completed before the HOPWA assistance begins.

Low-income: HOPWA is limited to tenants who are at or below eighty percent (80%) of the area median income. HUD establishes and periodically publishes this income limit by family size for each jurisdiction.

Timing: The Recipient must confirm that the client is income-eligible **prior to** signing a rental assistance contract with the client.

Family income: For initial eligibility purposes, family income under the HOPWA program will be calculated using Part 5 definition for determining annual income. The annual income definition is found at 24 CFR Part 5.609. The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.

Repayment of Assistance: If IHCD or HUD determines that client's household income exceeds income limits, IHCD will notify the Recipient to immediately cease providing assistance and the Recipient will be required to repay any HOPWA funds received by the Client during the time that the Client's household was over the income limits, however in the case of fraud the Client will be required to repay any HOPWA funds received by the Client during the time that the Client's household was over the income limits.

Source Documentation: The Recipient must determine annual income by examining **at least two (2) months of** source documents evidencing annual income (for example, wage statement, interest statement, and unemployment compensation statements) for the family.

Clients are eligible for HOPWA only if the proper documentation verifying the household's eligibility is placed in its file. IHCD strongly recommends efficient record keeping for monitoring purposes. A summary sheet may be placed in the beneficiary files as a self-checklist for recipients.

Recipients must review and document the income of all persons living in the household, regardless of HIV status and/or relationship to the client, excepting situations where the client is sharing housing with a roommate. In this case, the Recipient is not required to verify the client's roommate's income, but the Client will only receive assistance for the portion of housing costs for which he or she is responsible.

With respect to shared housing arrangements, the rent charged for an assisted family or individual shall be in relation to the size of the private space for that assisted family or individual in comparison to other private space in the shared unit, excluding common space. An assisted family or individual may be assigned a pro rata portion based on the ratio derived by dividing the number of bedrooms in their private space by the number of bedrooms in the unit. Participation

in shared housing arrangements shall be voluntary.

In the event that a client states that it has no income, the Recipient must ensure that the client completes a “Zero-Income Certification

B. Definition of Annual Income:

Definition of Annual Household Income: Annual income is the amount of income that is used to determine a household’s eligibility for assistance. Annual income is defined as follows:

1. All amounts, monetary or not, that go to or are received on behalf of the head of household, spouse or co-head (even if the household member is temporarily absent), or any other household member; or
2. All amounts anticipated to be received from a source outside the household during the twelve (12) month period following admission or annual recertification effective date.

Annual income includes amount derived (during the twelve (12) month period) from assets to which any member of the household has access.

The Recipient must obtain third party verification of income sources of all adult household members age eighteen (18) or older, as well as benefits paid on behalf of minors in the household.

Regular Cash Contribution and Gifts: All income received on a regular basis from persons not living in the units must be counted. These sources may include rent and utility payments paid on behalf of the household, and other cash on non-cash contributions provided on a regular basis. The only exceptions are child care expenses paid directly to the child care provider on behalf of the household or groceries given to the household (actual grocery items, not money for groceries).

Examples:

The father of a young single parent pays her monthly utility bills. On average he provides \$100 each month. The \$100 must be included in the household’s annual income.

The daughter of an elderly tenant pays her mother’s \$175 share of rent each month. The \$175 value must be included in the tenant’s annual income.

Welfare Rent as Income: Welfare assistance is counted as income. Most Owner/agents will use the actual gross amount of welfare assistance the household received. In certain “as-paid” localities, however, a special calculation is required. In an as-paid jurisdiction, welfare assistance for housing costs is established separately from the rest of the welfare assistance and may be adjusted based on the actual cost of the household’s housing.

For Welfare Recipients, Owner/Agents in as-paid jurisdictions must count as income the amount of general assistance the household received plus the maximum amount of housing assistance the

household could receive (rather than the amount the household is actually receiving).

Self-Employed Persons: Self-employment net income (after business expenses) from non-farm business, including proprietorship and partnership must be counted. Also, farm self-employment net income (after operating expenses) must be counted. Include amounts from land rented for shares.

Military Income: All regular pay, special pay, and allowances of a member of the Armed Forces must be counted. The exception to this rule is special pay to a household member serving in the Armed Forces who is exposed to hostile fire.

C. Whose Income Should Be Counted:

Adults: Count the annual income (earned and unearned) of the head, spouse, co-head, and any other adult members of the household. In addition, persons under the age of eighteen (18) who have entered into a lease, under state law, are treated as adults and their annual income must also be counted. These persons will be the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

Minor children: Benefits or other unearned income, including income from assets, of minors is counted. This includes child support, AFDC payments, Social Security, and other benefits paid on behalf of the minor.

Temporarily absent household members. The income of temporarily absent household member is counted in Part 5 definition of annual income – regardless of the amount the absent household member contributes to the household. For example, a construction worker employed at a temporary job on the other side of the state earns \$600 per week. He keeps \$200 per week for expenses and sends \$400 per week to his household. The entire amount (\$600 per week) is counted in the household's income.

Adult students living away from home. If an adult full-time student is counted as a member of the household in determining the household size (to compare against the HUD income limits), only the first \$480 of the student's income must be counted in the household's income. However, if the student is the head, co-head or spouse you must count the full amount of income. (NOTE: Verification must be obtained from the school verifying the student is full time.)

Adult student living at home: Count only earned income up to a maximum of \$480 per year for full-time students, age eighteen (18) or older, who is not the head of the household, co-head, or spouse. (NOTE: Verification must be obtained from the school verifying the student is full time.)

Permanently absent household members. If a household member is permanently absent from the household (e.g., a spouse who is in a nursing home), the head of household has the choice of either counting that person as a member of the household, and including income attributable to that person as household income, or specifying that the person is no longer a member of the household.

D. Determining Household Size:

The following persons shall not be included when calculating the household size for purposes of determining income eligibility: live-in aides (as defined in 24 CFR 5.403), unborn children, and children being pursued for legal custody or adoption who are not currently living with the household.

E. Whose Income Should Not Be Counted:

Income of live-in aides. If a household includes a paid live-in aide (whether paid by the family or social service program), the income of the live-in aide, regardless of the source, is not counted. Except under unusual circumstances, a spouse or minor child cannot be considered a live-in aide.

Earned income of minors. Earned income of minors (age seventeen (17) and under) is not counted. However, unearned and asset income of minors is included in total household income.

F. Income Inclusions:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services.
2. Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness cannot be used as deductions in determining the net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the household.
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the household. Where the household has net household assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net household assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a period payment (except as provided in number 14 of Income Exclusions).
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in number 3 of Income Exclusions).
6. Welfare Assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance

agency in accordance with actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

- The amount of allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - The maximum amounts that the welfare assistance agency could in fact allow the household for shelter and utilities. If the household's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph is the amount resulting from one (1) application of the percentage.
7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
 8. All regular pay, special day and allowances of a member of the Armed Forces (except as provided in number 8 of Income Exclusions).

G. Income Exclusions:

- Income from employment of children (including foster children) under the age of eighteen (18) years.
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant household, who are unable to live alone).
- Lump-sum additions to household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in number 5 of Income Inclusions).
- Amounts received by the household that are specifically for, or in reimbursement of, the cost of medical expenses for any household member.
- Income of live-in aide (as defined in 24 CFR 5.403).
- Certain increases in income of a disabled member of qualified families receiving HOPWA (24 CFR 5.67(a))
- The full amount of student financial assistance paid directly to the student or to the educational institution.
- The special pay to a household member serving in the Armed Forces who is exposed to hostile fire.
- Amounts received under training programs funded by HUD.
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
- Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program.
- Amounts received under a resident service stipend (as defined in 24 CFR 5.609(c)(8)(iv)).
- Incremental earnings and benefits resulting to any household member from participation in qualifying state or local employment training programs (including training not

affiliated with a local government) and training of a household member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only of the period during which the household member participates in the employment-training program.

- Temporary, nonrecurring, or sporadic income (including gifts).
- Reparation payments paid by foreign government pursuant to claims under the laws of the government by persons who were persecuted during the Nazi era.
- Earnings in excess of \$480 for each full-time student eighteen (18) years old or older (excluding the head of household or spouse).
- Adoption assistance payments in excess of \$480 per adopted child.
- Deferred period amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
- Amounts received by the household in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
- Amounts paid by a state agency to a household member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled household member at home.
- Amount specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions of 24 CFR 5.609(c) apply, including,
 - (i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;
 - (ii) Payments to Volunteers under the Domestic Volunteer Services Act of 1973;
 - (iii) Payments received under the Alaska Native Claims Settlement Act;
 - (iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;
 - (v) Payments or allowances received under the Department of Health and Human Services' Low-Income Home Energy Assistance Programs;
 - (vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;
 - (vii) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;
 - (viii) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs. For Section 8 programs, the exception found in Section 237 of Public Law 109-249 applies and requires the amount of financial assistance in excess of tuition shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E);
 - (ix) Payments received from programs funded under Title V of the Older Americans

- Act of 1965;
- (x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange liability litigation, M.D.L. No. 381 (E.D.N.Y);
 - (xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420, 25, U.S.C. 1721) pursuant to 25 U.S.C. 1728(c);
 - (xii) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
 - (xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991;
 - (xiv) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
 - (xv) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
 - (xvi) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act;
 - (xvii) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998;
 - (xviii) Any amount received under the School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C 1780b), including reduced-price lunches and food under the Special Supplemental Food Program for Woman, Infants, and Children (WIC);
 - (xix) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990;
 - (xx) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437) by Section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 42 U.S.C. 4501);
 - (xxi) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C 4101) and administered by the Office of Native American Programs; and
 - (xxii) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, United States District Court, District of Columbia, as provided in the Claims Resolution Act of 2010 (Pub. L 111-291).

H. Treatment of Assets:

Third-party verification of all household assets is required, even if the total amount is less than \$5,000. Use IHCD's Asset Verification Form.

What to Include as an Asset

In general terms, an asset is a cash or non-cash item of value that can be converted to cash. It is the income earned on the asset that is included in annual income (e.g. count the interest earned on the savings account), not the value of the asset itself.

The market value of an asset is its dollar value on the open market. The cash value of an asset is the market value minus reasonable expenses incurred to convert the asset to cash, including for example:

- Penalties or fees for converting financial holdings. Any penalties, fees or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value.
- Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property and any legal fees associated with the sale of real property are deducted from the market value to determine equity in real estate.

For the purposes of calculating annual income, the cash value of an item is counted as the asset, not the market value.

Any asset source that is not specifically excluded must be included. For more information regarding net household asset inclusions and exclusions, and how to determine the value of income from assets, see chapter 5 of HUD Handbook 4350.3 in Appendix A, specifically Section 5-7 and Exhibit 5-2.

Actual Income from Assets

Actual income from assets is the income generated by the asset, such as interest or a dividend. This is counted as income even if the income is not received by the household, for example, if the interest or dividend is automatically reinvested into the asset. When net household assets (cash value of all assets) are up to \$5,000, the actual income from assets is always the income used. When net family assets exceed \$5,000 then the actual income must be compared to the imputed income from assets (see below) and the higher amount is used for income determination.

Imputing Income from Assets

If net household assets (cash value of all assets) is greater than \$5,000, asset income (which must be included as part of total gross household income) will be the greater of: a) actual asset income; or b) net family assets multiplied by the HUD approved passbook rate (the “Imputed Income from Assets”). The current passbook rate is two percent (2%)

Disposed of Assets

Assets disposed of for less than fair market value are included as assets for a period of two (2) years from the date of disposal. The amount to be included as an asset is the difference between

the cash value of the asset and the amount that was actually received (if any) in the disposition of the asset. This rule only applies if the difference between the cash value and the amount received is greater than \$1,000.

Assets disposed of for less than the fair market value as a result of foreclosure or bankruptcy or those lost through a divorce or separation settlement are not included in this calculation.

Asset Inclusions

1. Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average six (6) month balance.
2. Cash value of revocable trusts available to the applicant.
3. Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Equity in a household's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
4. Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.
5. Individual retirement accounts and Keogh accounts (even though withdrawal would result in a penalty).
6. Retirement and pension funds.
7. Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
9. Lump sum or one (1) time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
10. Mortgages or deeds of trust held by an applicant.

Asset Exclusions

1. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities.
2. Interest in Indian trust lands.
3. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated from the asset.
4. Equity in cooperatives in which the household lives.
5. Assets not accessible to and that provide no income for the applicant.
6. Term life insurance policies (i.e., where there is no cash value).
7. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

Annual Income Re-Verification

Income must be re-verified annually.

SECTION III: PROGRAM PROCEDURES AND POLICIES

The HOPWA program rules in 24 CFR 574 provide general standards for eligible housing activities such as client eligibility, housing quality standards, and standards regarding resident rent payments as provided under the United States Housing Act of 1937. Many of those rules are summarized here.

Types of Assistance

HOPWA assistance can take several forms including:

Long-Term Rental Assistance (TBRA)/ is used to provide ongoing monthly subsidy to clients for rental housing. The following **are not eligible** for this assistance:

- Clients who own a home;
- Clients who are already receiving a rental subsidy from another program (such as Section 8 HCV, Supportive Housing, Shelter plus Care, etc.)

Ineligible Expenses include:

- Rent for a unit owned by client's relative
- Security Deposit
- Expenses due to repairs or damage
- Mortgage Expenses

In order to receive Long-Term Rental Assistance, the client must comply with the following requirements:

1. The Client must select a rental dwelling unit located within the jurisdiction of the Recipient that meets the program's habitability standards and has a rent that is at or below the published Section 8 Fair Market Rent in accordance with 24 CFR 574.320(a)(2) ("Unit"). Additionally, the rent charged for the Unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.
2. After the Client finds a Unit, the Client must submit the following documents to the Recipient: (1) a "Request for Unit Approval" form, signed by the Landlord; and (2) a copy of the Landlord's lease. If a Request for Unit Approval has not been submitted to the Recipient within sixty (60) days of the date that the Rental Assistance Payment Contract ("RAP") was issued, the RAP will expire, unless the Recipient approves an extension.
3. After the Recipient receives the Request for Unit Approval, the Unit will be inspected and

the Recipient will review the Landlord's lease. If the Unit and the rent for the Unit meet the Program's requirements the Recipient will notify the Landlord and the Client that it has approved the Unit. If the Unit, rent, or lease cannot be approved, the Recipient will provide the Landlord with an opportunity to correct the problem(s) or the Client can begin to look for another unit with the assistance of the Recipient.

4. The Recipient will work with the Landlord and the Client to execute all of the necessary documents:
 - The Landlord and the Client must sign a lease that is approved by the Recipient.
 - The lease must have a term of at least one (1) year
 - The Landlord and the Recipient must sign a RAP.
5. Once all necessary documents have been signed and the Client moves into the Unit, the Recipient will begin making payments to the Landlord.

Long-Term Program Delivery includes staff time and supplies directly related to administering Long-Term Rental Assistance

Eligible Expenses:

- Staff time spent verifying rent-reasonableness
- Mileage to perform housing inspection

Ineligible Expenses:

- Housing referral services
- Moving Costs

Short-Term Rent, Mortgage, and Utility Assistance (STRMU) The goal of STRMU assistance is to provide short-term interventions that help maintain stable living environments for households who are experiencing a financial crisis as a result of issues arising from their HIV/AIDS condition. STRMU assistance is a type of prevention that is intended to reduce the risks of homelessness, and, along with other HOPWA efforts, to improve access to health care and other needed support. STRMU should not be used to assist a client with locating a housing unit or with other move-in support, as the household should already have a housing arrangement such as a lease for rental housing or mortgage payment for its own home, as applicable.

Clients are **not eligible** for STRMU if they are:

- Already receiving Long-term rental assistance; or
- Homeless.

Eligible Expenses:

- Back or ongoing payments for rent, mortgage, or utilities.

Ineligible Expenses

- Security deposit
- Realtor fees
- Unsustainable recurring living costs.

Short-term rent, mortgage, and utilities payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided to such an individual for these costs accruing over a period of more than 21 weeks in any 52 week period. (see Table

Below that demonstrates the method by which the 21 weeks must be calculated).

Calculating 21-week limit for STRMU:

- The statute limits STRMU assistance to no more than 21 weeks in any 52-week period.
- Period of assistance begins on the day that the first payment is made.
- Round each month to 4 weeks of assistance, yielding a maximum total of 5 months of assistance.
- Provided that the rent payment and utility bill are reasonably coincidental (e.g., at least 14 days overlap between rent and utility payment period) it can be considered

Clients may be eligible to transition onto Long-term rental assistance once their STRMU assistance has been exhausted.

Short Term Program Delivery includes staff time and supplies directly related to administering Short-Term Rent, Mortgage, and Utility Assistance.

Eligible Expenses:

- Staff time spent processing payments of assessing need

Ineligible Expenses:

- Anything related to addressing temporary emergency need in current housing.

Supportive Services, as required by §574.310(a), must be provided as part of any HOPWA assisted housing, but HOPWA funds may also be used to provide these services independently of any housing activity.

The aim of providing supportive services is to improve a client's access to care and services related to health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local, State and Federal government benefits and services.

It is the Recipient's and the client's responsibility to try and locate public and private resources to assist with these activities and use HOPWA only as a last resort. It is also the responsibility of Recipient to work with its clients to determine the most appropriate form of assistance. Clients served by these activities must have a demonstrated need that the activity will help them increase stability in their housing.

- Access to Local, State, and Federal government benefits and services.
- Adult day care and personal assistance – For qualifying head of household or their non-minor dependents only.
- Alcohol and drug abuse treatment and counseling services – For qualifying head of household only.

- Day care – for minor dependents of qualifying head of household only.
- Education - For qualifying head of household only.
- Employment assistance and training – For qualifying head of household only.
- Health and medical services – Can only be provided to individuals diagnosed with acquired immunodeficiency syndrome or related diseases and not the family members of these individuals.
- Legal Services – For qualifying head of household only
- Nutritional Services – Includes meal services and reimbursement for necessary groceries. Documentation of grocery reimbursement must include an itemized receipt.
- Transportation – May only be used in conjunction with one of the other eligible activities listed above (e.g., bus fare to assist client with travel to medical appointment.) May not be used for expenses related to client's personal vehicle (e.g.: gasoline, maintenance, etc.). For monitoring and documentation, any client that receives transportation services must sign a copy of the HOPWA transportation affidavit, which is to be kept in their file.

**Note: Permanent Housing Placement and Housing Information services are designated as supportive services in the reporting forms, but as separate budget line items.*

Housing Information Services

Housing information services including, but not limited to, counseling, information, and referral services to assist an eligible person to locate, acquire, finance and maintain housing. This may also include fair housing counseling for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap. A person with AIDS or related diseases or a family member regardless of income is eligible to receive housing information services.

Eligible Expenses:

- Counseling or housing referral services
- Cost of producing informational materials to educate clients on housing opportunities.
- Salary for housing counselors.

Ineligible Expenses:

- Credit checks
- Application fees
- Security deposits

Permanent Housing Placement

Permanent housing placement services may be used to help clients establish a new residence where ongoing occupancy is expected to continue. It may be used to compliment other forms of HOPWA housing assistance. For example, it can be used to adjust to changes in care needs by assisting persons transitioning from more supportive settings and programs with securing alternative housing arrangements.

Eligible Expenses:

- Application fees and Credit Check expenses.
- First month's rent and security deposit (not to exceed two months' rent.)
- One-time utility connection fees and processing costs.

Ineligible Expenses:

- Counseling costs
- Moving services
- Regular recurring costs such as rent or utilities
- Standard household furnishings.

Facility-Based Assistance

In addition to STRMU housing assistance and Long-term rental assistance, HOPWA funds may be used in connection with a specific housing project or facility including:

- Facility-based housing rental assistance, including master-leased units and project-based rental assistance;
- Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs. Maintenance activities include:
 - Cleaning activities
 - Protective or preventative measures to keep a building, its systems, and its grounds in working order; or
 - Replacement of appliances or objects that are not fixtures or part of the building.

Eligible Expenses:

- Rental Assistance tied to specific units
- Operating costs for the specified units, including maintenance, security, insurance, utilities, and/or supplies

Ineligible Expenses:

- Rental assistance that is not specified for a dedicated unit
- Assistance to a facility that does not serve as housing, such as an office.
- Acquisition, rehabilitation, conversion, lease, or repair of facilities to provide housing and services.
- New construction of single-room occupancy units or community residences.
- Replacement or repair of objects or items that are permanent fixtures of the building.

Program Administration Guidelines

- Recipients may use up to 7% of their HOPWA award for administration costs.
- Recipients may also use up to a combined maximum of 35% for Housing Information and Permanent Housing Placement costs.
- Recipients are required to report TBRA payments made to owners of housing projects (Revenue Rule 88-53). Payments in excess of \$600 to a person in any calendar year must be reported to the IRS on form 1099-MISC, Box 1, "Rents." Accordingly, a Recipient must collect a IRS form W-9 from each landlord.
- Costs incurred in one grant effective period cannot be paid with funds from a subsequent grant effective period.

Eligible Expenses:

- Office supplies
- Postage
- Rent and utilities for office space
- Costs associated with attending HOPWA trainings
- Staff time spent creating reports, compiling claims, etc.

Ineligible Expenses:

- Costs directly associated with other eligible HOPWA activities.

Recipient Responsibilities

The Recipient must manage HOPWA funds for delivery of HOPWA program services by establishing policies and procedures as required by federal regulations including:

- **Management of grant funds:** The Recipient must plan and budget its expenditure of HOPWA funds to ensure they are available throughout the project year and are not expended prematurely. Reviewing current caseloads and expenditures by client, waiting lists, and past program performance can be used to plan services more effectively. No more than 7 percent of the Recipient's grant may be expended for administrative costs.
- **Budgeting grant funds:** It is *recommended* that Recipients budget 1/12 of their annual HOPWA budget per month after the HOPWA TBRA commitment has been determined. In the event that a Recipient under-spends or over-spends in any particular month, Recipient will be able to determine the balance of funds available for the coming months.
- **Charging to the appropriate Grant:** Costs incurred in one grant effective period cannot be paid with funds from a subsequent grant effective period.

Required Documentation in Client File

Recipient must keep the documentation listed below in the client's file. There is also a description of some of the documents under the checklist. . Required minimum documentation as applicable*

includes:

1. Housing Application and Assessment
2. Date of First Contact
3. Date Assistance Began
4. Release of Information (ROI) Authorization
5. Statement of HIV Verification
6. Gross Annual Income Worksheet
7. Type of assistance rendered
8. Income Exclusions List
9. Housing plan and/or Individual Case Management Service Plan
10. Landlord Lease
11. Rental Assistance Payment Contract
12. Security Deposit Agreement (if applicable)
13. Copies of checks paid to landlord
14. Program service agreement
15. Housing Inspection – Habitability form
16. Lead-Based Paint Acknowledgement form
17. Smoke Detector Certification
18. Grievance/Termination Policy Signed, Appeals Process
19. Grievances filed, including follow-up and outcomes.
20. Rent Reasonable check – long term rental assistance.
21. Verification that rents do not exceed Fair Market Rent**
22. Documentation of receipt of “Fair Housing – It’s Your Right” brochure***
23. Request for Unit Form

**Other documentation may be required depending on individual client needs, type of assistance provided, and situation.*

***Fair Market Rent rates can be found at:*

http://www.huduser.org/portal/datasets/fmr/fmr_il_history.html

**** “Fair Housing – It’s Your Right” brochure can be found at:*

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights

Description of File Documentation.

1. Housing Application and Assessment

This document is designed for use by Recipients to collect the information necessary to make a program eligibility determination. It will also help case managers better understand a client’s needs and barriers, thereby allowing them to develop an appropriate service plan. This form is also used to capture client-level information that Recipients are required to report to HUD through the end-of-year performance reporting process.

As part of the initial housing and eligibility assessment, a risk assessment should be conducted to identify the client’s risk factors such as:

- Physical or mental health conditions or disabilities in addition to HIV/AIDS.
- History of substance abuse/addiction.
- Past criminal history
- History of homelessness

2. Date of First Contact/ Date Assistance Began/ Type of Assistance Rendered

This information does not require unique paperwork, but must be recorded in the client's file in some capacity.

3. Release of Information Authorization

While HOPWA clients have the right to privacy, sharing certain information with other agencies may increase the client's access to services and supports. Before any information is release, however, the Recipient must seek permission from the client to release confidential information. The client's signature on this form grants that permission.

4. Statement of HIV Verification

To receive assistance under the HOPWA program, a client's HIV status must be documented. The HIV/AIDS diagnosis must be made by a health professional competent to make such a determination; **case manager's statement is not sufficient**. The Statement of HIV Verification can be used to document the client's HIV status.

**Please note, the client's HIV/AIDS status is subject to confidentiality requirements.*

5. Gross Annual Income Worksheet

To be eligible for assistance under the HOPWA program, individuals must be at or below 80 percent of area median income (AMI.) This worksheet can be used by Recipients to calculate household income and determine eligibility for assistance. Per State HOPWA, 75% of all households served with HOPWA funding must be at or below 50% Area Median Income;

**A Zero-Income Affidavit can be included in lieu of the Gross Annual Income Worksheet in the event that the client has no income. Use IHCD's Zero Income Affidavit.*

6. Income Exclusions List

This is simply a list of those income sources which are not included in determining eligibility for HOPWA assistance (see SECTION II: Eligibility – Income To Be Excluded.)

7. Housing Plan and/or Individual Case Management Service Plan

HOPWA regulations require that appropriate supportive services be provided as part of any HOPWA-assisted housing. Individualized plans are required as a means to address the HOPWA outcome goals. The plan should address all needs and barriers to housing stability identified through the assessment. This plan template can be used by case managers to develop a strategy for helping clients obtain and maintain housing stability. Regular follow-up should occur at a frequency appropriate to need. HOPWA requires at least annual income and rent recertification, presenting an opportunity for re-assessment.

8. Program Service Agreement

This document may take many forms based on the type of assistance provided to the client. However, it must outline precisely what assistance is provided, the value of that assistance, and the obligations of both the client and the Recipient under HOPWA regulations.

9. Housing Inspection Habitability or HQS form

All housing subsidized under C.F.R. 24 574.300(b)(3),(4),(5) and (8), must be safe and sanitary. Each unit must be inspected to ensure compliance with HUD habitability standards before assistance can be provided to the Client.

10. Lead-Based Paint Acknowledgement Form

(See SECTION VI: OTHER STATE AND FEDERAL REGULATIONS – Lead-Based Paint Requirements.)

Financial Management Training

At least one person involved in the administration of Recipient's HOPWA grant must have attended the HOPWA Financial Management Training Course and receive a certificate of completion within 90 days of the Recipient's award date. While only one individual is required to pass the course, it would also be beneficial for as many representatives of Recipient as possible to complete the course; particularly those who are involved with financial transactions and management of the HOPWA-assisted activity or the claims process.

The course has 8 sections, each section includes a 10-15 question multiple choice test at the end of the section. Completing all sections will take approximately 4 hours, but the course is not required to be taken in a single session.

A representative of Recipient, who is involved in the administration of Recipient's HOPWA grant, is only required to take the course one time and receive a certificate of completion.

HUD: HOPWA Financial Management Training:

<http://www.hudhre.info/index.cfm?do=viewHopwaFinancialTraining>

Supporting Documentation

All clients receiving long-term rental assistance and short-term rent, mortgage, and utility assistance must submit leases (in effect for the entire period that the client is receiving assistance) to Recipient in order to receive the assistance. To receive short-term rent, mortgage, and utility assistance the Client must:

- Be a tenant on a valid lease for property in which the Client is and has resided prior to applying for the HOPWA assistance; or
- Be the owner of a mortgaged dwelling in which the Client resides.

Clients must also demonstrate the following:

- The Client is the named tenant under a valid lease (to receive a rental payment);
- The Client is the owner of mortgaged real property (to receive a mortgage payment);
- The Client has an account in their name with a utility company (to receive a utility payment); or
- The Client is not able to make the Client's monthly payments.

**In instances where the Client is a minor, the parent and/or guardian is required*

to present the required evidence for the minor.

Rent Reasonableness

The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.

With respect to shared housing arrangements, the rent charged for an assisted family or individual shall be in relation to the size of the private space for that assisted family or individual in comparison to other private space in the shared unit, excluding common space. An assisted family or individual may be assigned a pro rata portion based on the ratio derived by dividing the number of bedrooms in their private space by the number of bedrooms in the unit. Participation in shared housing arrangements shall be voluntary.

IHCDA Partners are required to use www.GoSection8.com to calculate rent reasonableness.

Absence from Unit

The Client may be temporarily absent from the unit for brief periods. However, the Client may not be absent from the unit for a period of more than 90 consecutive calendar days in any circumstance, or for any reason, unless associated with hospital stays and/or rehabilitation.

The HOPWA assistance must terminate if the family is absent for longer than 90 consecutive calendar days. Absence means that no member of the family is residing in the unit. The family must supply any information or certification requested by the Recipient to verify that the family is residing in the unit, or relating to family absence from the unit. The family must cooperate with the Recipient for this purpose. The family must promptly notify the Recipient of its absence from the unit, including any information requested regarding the reason for family's absence.

The Recipient should adopt appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits or questions to the landlord or neighbors.

Homeless Management Information System (“HMIS”)

Recipients are required to integrate with HMIS to improve coordination and to enhance its Clients access to other community assistance programs (i.e. projects that target and serve persons who are homeless). Clients will need to execute consent forms to facilitate the entering of their health information into the HMIS. Costs of staff time entering into HMIS can be reimbursed with the HOPWA grant. For all questions regarding HMIS, please refer to:

The HMIS Help Desk: HMISHelpDesk@ihcdaonline.com

Housing Habitability Standards

Housing that receives any of the following types of assistance using HOPWA funding such as, project- or tenant-based rental assistance, including assistance for shared housing arrangements and facilities that receive Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs, must be safe and sanitary. Each unit must be inspected to ensure that it meets the habitability standards set forth in 24 CFR 574.310(b)(2) before any HOPWA assistance can be paid. Recipients must complete an IHCDA Housing Habitability Form for each unit.

Termination

HOPWA assistance can be terminated for the following reasons:

1. Voluntary Termination is when the Client chooses to leave the program for any reason including: the Client no longer requires assistance, the Client has enrolled in the Housing Choice Voucher Program or another program that provides housing assistance, or the Client's household income increases, etc.
2. Death of Client With respect to the surviving member or members of a family who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death, housing assistance and supportive services under the HOPWA program may continue for a grace period not to exceed one year from the death of the family member with AIDS. The Recipient shall notify the family of the duration of their grace period and may assist the family with information on other available housing programs and with moving expenses.
3. Involuntary Termination is a termination initiated by the Recipient due to the Client's non-compliance with program requirements or fraud.

Examples of non-compliance/fraud include but are not limited to:

- Client does not follow the requirements of the rental assistance payment contract, other agreements/guidance related to the HOPWA program
- Client is no longer occupying the unit
- Client fails to provide a lease or requested information for application processing
- Client fails to report all sources of household income
- Client fails to identify all household members
- Client or family members falsify information in order to receive assistance,

*Clients who are involuntarily terminated due to a violation of requirements are ineligible to receive HOPWA assistance funded through IHCDA for a period of one (1) year. However, Recipients may still provide supportive services to terminated clients.

4. Termination Process

According to HOPWA regulations (24 C.F.R. 574.310 (e)(2)(ii)), Recipients who involuntarily terminate a Client must follow a formal termination process that recognizes

the Client's right to due process of law.

This process must include:

- Serving the Client with a written notice containing a clear statement of the reasons for termination;
- Permitting the Client to have a review of the decision, in which the Client is given the opportunity to confront opposing witnesses, present written objections, and be represented by their own counsel, before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
- Providing prompt written notification of the final decision to the Client.

Appeal Process

The Appeal Process begins at the local level with an informal review designed to settle most problems through a review of the facts and resolution of the issues.

1. Informal Review

If a client disagrees with the reason for involuntary termination, he/she may submit a written request to the Executive Director (or equivalent) of the Recipient for a review of the determination. The request must be submitted within ten (10) working days of Client's receipt of the determination and include specific reasons why the client feels the termination decision was inaccurate or unfair. The Client may submit additional documentation for review by the Executive Director at the time of the review request. The Executive Director will then have fifteen (15) working days to review the termination decision and render their findings. This time may be extended by the Executive Director in the interest of fairness.

2. Formal Appeal

If the Client disagrees with the findings of the Executive Director, they may request a Formal Appeal of the decision from IHCDA. The request must be submitted within ten (10) working days of Client's receipt of the Executive Director determination and sent to:

Indiana Housing and Community Development Authority
Attn: Compliance Attorney
30 S. Meridian Street, Suite 1000
Indianapolis, IN 46204

The Compliance Attorney will set the matter for hearing by sending written notice to the Client within ten (10) working days of receipt the client's request. The written notice will inform the Client of: 1) the location, time and date of the hearing, 2) the Client's right to confront opposing witnesses, 3) the Client's right to present written objections or other evidence, 4) the Client's right to be represented by counsel at their own expense, 5) the Client's right to received copies of all documents that will be presented by the Recipient, and 6) the Client's right to have the hearing via telephone.

The Client must request the documents from IHCDA no later than 12:00 p.m. on the business day prior to the scheduled hearing date if they can receive the documents by

email. Otherwise, the Client must make the request for documents no later than five (5) working days before the scheduled hearing date. The letter will further inform the Client that they must make any documents they wish to present at the hearing available to IHCD no later than 12:00 p.m. on the business day prior to the scheduled hearing date or the documents might not be allowed to be presented at the hearing.

The Client may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the Client or a necessary witness. Requests to reschedule a hearing must be made orally or in writing at least two (2) working days **prior to** the hearing date.

If the client does not appear or make themselves available by phone at the scheduled time, the hearing will be cancelled and no appeal will be heard. At its discretion, the Compliance Attorney will reschedule the hearing only if the Client can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

3. Compliance Attorney Decision

The Compliance Attorney will issue a written decision, stating briefly the reasons for the final decision. The hearing decision will be furnished to the Client within fifteen (15) working days of the hearing. The decision of the Compliance Attorney is final.

SECTION IV: CLAIMS

Claims Resource Manual:

In an effort to continually improve the claims process, the financial operations department has published the new Partner's Guide to IHCDAOnline 2015. Recipients can access the updated version online in two ways outlined below.

IHCDAOnline portal

1. Go to ihcdaonline.com, select Authority Online, you will see in the lower portion of the screen the portal to [Online Resources and Training Videos](#).
2. Click on the [Online Resources and Training Videos](#) link. You will now be at the Training and Resources page.
3. Under "Administration" you will see [*NEW* Partner's Guide to IHCDAOnline](#).
4. Click on that link and you will have instant access to the New Partner's Guide.

Partner Website

1. Go to Partner website at www.in.gov/myihcda
2. Under the left hand menu IHCDA Partners Home, select "Program Administrators"
3. Select "Claims Submissions"
4. The link is located under Resources

Submitting a Claim:

1. Recipient must log into www.IHCDAOnline.com
(New users: Select "New User? Register Here" and following the relevant instructions to register a new account. Please allow 24-72 business hours for your account to become active.)
2. Select link: "Award Claims Management"
3. Click "Create Claim" to start a new claim
-OR-
Select "Claim List," and then the appropriate claim to continue working on an existing claim.
4. Select the appropriate Award Number from the drop-down list.
5. Complete each tab of the claim submission process.
6. Ensure that the month that the claim references is noted in the "Comments" section.
7. Hit "Submit." Print and sign the Claim Receipt and Summary Pages.
8. Scan the Claim Receipt, the Summary Pages and attach to the claim using the "Supporting Documents" feature.

Guidelines for Claims:

- All claims are due on the 20th of each month.
- Recipients may only claim expenditures incurred in the month immediate previous to the claim's submission.
- Only one claim may be submitted per month (12 per year.)

- 45% of the Recipient’s award should be claimed by January 20, 20165. *(If your organization has not claimed 45% of your award by that time, IHCDA reserves the right to de-allocate from your organization the remaining balance of your award.)*

Accompanying Documentation:

All HOPWA activities and line items require the submission of the 2013 IHCDA Claim Forms (Excel workbook). However, some HOPWA activities require additional documentation:

<ul style="list-style-type: none"> • Long Term Rental Assistance • Short Term Rent, Mortgage, and utilities 	<ul style="list-style-type: none"> • Long Term Program Delivery • Short Term Program Delivery • Housing Information • Supportive Services • Facility Operations • Administration
No additional documentation required	Copy of bill/invoice or check, and salary information with time sheet or journal detail report corresponding dates.

Steps of the Claims Process:

The IHCDAOnline will show the status of pending claims, including the following:

<u>Step/Status</u>	<u>Definition</u>
Claim Created- Awaiting Approval	The Recipient has created the claim, but has not yet submitted the Claim to IHCDA.
Claim Created – Approved	The Recipient has created the claim, and submitted it to IHCDA.
The IHCDA Program Administrative Review/ Approved	The IHCDA Claims Representative has approved the claim.
Accounting Review/ Approved	The IHCDA Accounting Department has approved the claim.
ACH Transfer/Approved	Funds have been transferred to the Recipients’ account on record.

SECTION V: CONFIDENTIALITY

Recipient must adopt procedures to ensure that all client information is handled and maintained in a confidential manner and in compliance with the requirements of all applicable state or federal laws, rules, and regulations, including, but not limited to, those relating to the release of Social Security numbers in I.C. § 4-1-10 and the notice of security breach provisions in I.C. § 4-1-11. Confidential information means any individually identifiable information, whether oral or written, about the Clients who receive services and/or assistance under the HOPWA program. Recipient's employees, agents, contractors or others who require access to confidential client information must sign a confidentiality agreement. Any information obtained in connection with the examination, care, or services provided to any client shall not be disclosed without the client's signed consent. (There may be exceptions to client disclosure as required by law.)

Policies related to confidentiality should, at a minimum, address the following:

- How staff will gather, record, and store confidential information
- The consent process for the release of confidential information
- Protocols for responding to breaches of confidentiality
- Standards contained in relevant State and Federal laws, including Health Insurance Portability and Accountability Act (HIPAA) compliance (if applicable), and HIV confidentiality statutes
- Privacy standards related to data collection and use of participant information for program reporting, such as HMIS data standards

Particular care must be taken to assure confidentiality by having the Recipient's correspondence, envelopes, and checks, to landlord, utilities, etc., not reveal that the client is receiving assistance due to HIV/AIDS. This can be accomplished by establishing a checking account for the provision of HOPWA assistance using a neutral account name such as "Housing Fund" or "Assistance Fund."

Prior to exchanging information with any other agency or entity, Recipients must first obtain the Client's consent in writing. This document must be completed and signed by the client identifying specific individuals or organizations to which confidential information may be disclosed. In the absence of specific written authorization, no information identifying an individual's HIV status may be disclosed by the Recipient to ANY individual or organization (save for those disclosures required by law.)

Confidentiality requirements are established by HUD regulations (C.F.R. 24 § 574.440.)

In addition, Recipients will also need to obtain a signed HMIS consent form in order to enter Client information into HMIS, since this data contains medical information.

SECTION VI: REPORTING

Generally, each operating year under a HOPWA award should be a 12-month period, which begins on the grant effective period described in the grant agreement (July 1, 2014 to June 31, 2015). For the purposes of Annual Progress Reports (APR) the Recipient should document activities consistent within the term of the grant agreement.

The APR is due to IHCDA within 30 days of the end of the designated 12-month operating period (6/31/2015.)

The APR must be used for any HOPWA grants that have been awarded. Recipients should use the APR for reporting to IHCDA on their program activities. IHCDA will consolidate Recipient information into a Consolidated Annual Performance and Evaluation Report (CAPER); the CAPER should be the only report filed with HUD.

As applicable, IHCDA must submit a completed CAPER to HUD within ninety (90) days after the end of each grant effective period. After the Local HUD Office has received and reviewed the CAPER, the Recipient may be contacted regarding the information presented and may be asked to submit additional or corrective information. Failure of a Recipient to submit an APR may affect its receipt of future competitively awarded grant funds and may result in corrective action.

Monitoring Standards

HUD requires that IHCD perform monitoring of a minimum of fifty (50%) of HOPWA Recipients each year to ensure that the program is being administered efficiently and in accordance with HOPWA regulations and guidance. Monitors will be reviewing the following elements (if applicable):

ELIGIBILITY

Client File Contents

General:

- HOPWA Application
- HIV Verification
- Housing Plan/ Individual Case Management Service Plan
- Program Service Agreement
- Grievances filed
- Termination/Grievance Policy signed

Supportive Services:

- Documentation of service activities
- Copies of bills/receipts

STRMU:

- Lease
- Copies of Checks
- Documentation of Emergency Need
- Mobile/Manufactured Home Requirements
- 21-Week Tracking Sheet

Housing Placement:

- Documentation of service activities
- Copies of bills/receipts

TBRA:

- Lease
- Lease Addendum
- Sub-Recipient/Landlord Contract
- Housing Inspection
- Lead Based Paint Acknowledgement
- Smoke Detector Certification

RENT AND INCOME CALCULATION

Client File Contents

General:

- Completed Household Income Verification (with attachments)
- Income Exclusions list
- Earned Income Disregard

TBRA:

- Rent Calculation
- Shared housing rent calculation

HOUSING PLANS AND REPORTING

Client File Contents

Assessment:

- Includes guidelines for conducting housing assessments and creating housing plans
- Identifies the causes of housing instability
- Identifies barriers to maintaining housing
- Identifies eligibility for other housing assistance
- Identifies any resources, skill deficits, or services needs that could lead to lack of housing stability

Housing Goal Plans:

- Reviewed at least every 6 months
- Includes the development of a realistic housing stabilization plan that addresses both short and long-term housing needs
- Establishes time frame to achieve stability within 21 week assistance period (STRMU)
- Allows time to plan for and arrange longer term housing assistance
- Clients set goals for housing and independence
- Creates a strategy to avoid perpetual dependence on HOPWA rental/utility assistance
- Plan addresses budget and money management issues

Documenting Goals

- HOPWA Goals and objectives are clearly identified in housing plans
- Progress tracking is identifiable by specific HOPWA goals and outcomes

SECTION VII: OTHER FEDERAL REGULATIONS

1. Conflict of Interest

- A. No person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or project sponsor and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.
- B. **Exceptions: Threshold requirements.** Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (A) of this section when it determines that the exception will serve to further the purposes of the HOPWA program and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:
 1. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 2. An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
- C. **Factors to be considered for exceptions.** In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (B) of this section, HUD will consider the cumulative effect of the following factors, where applicable:
 1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 2. Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 3. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
 4. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (A) of this section;
 5. Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
 6. Any other relevant considerations.

2. Affirmative Outreach

Recipient must adopt procedures to ensure that all persons who qualify for the assistance, regardless of their race, color, religion, sex, age, national origin, familial status, or handicap, know of the availability of the HOPWA program, including facilities and services accessible to persons with a handicap, and maintain evidence of implementation of the procedures.

3. Meaningful Access for Limited English Proficient Persons

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“limited English proficient persons” or “LEP”) may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter. In accordance with Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, the Recipient must take reasonable steps to ensure meaningful access, to activities for HOPWA-funded activities by LEP persons. Any of the following actions could constitute “reasonable steps”, depending on the circumstances: acquiring translators to translate vital documents, advertisements, or notices, acquiring interpreters for face to face interviews with LEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the project, hiring bilingual employees or volunteers for outreach and intake activities, contracting with a telephone line interpreter service, etc.

4. HUD Guidance for Single-Sex Emergency Shelters or Other Facilities that Receive ESG, HOPWA, or CoC Funds:

A. Assignments

HUD assumes that a recipient or subrecipient (“provider”) that makes decisions about eligibility for or placement into single-sex emergency shelters or other facilities will place a potential client (or current client seeking a new assignment) in a shelter or facility that corresponds to the gender with which the person identifies, taking health and safety concerns into consideration. A client’s or potential client’s own views with respect to personal health and safety should be given serious consideration in making the placement. For instance, if the potential client requests to be placed based on his or her sex assigned at birth, HUD assumes that the provider will place the individual in accordance with that request, consistent with health, safety, and privacy concerns. HUD assumes that a provider will not make an assignment or re-assignment based on complaints of another person when the sole stated basis of the complaint is a client or potential client’s non-conformance with gender stereotypes.

B. Appropriate and Inappropriate Inquiries Related to Sex

For temporary, emergency shelters with shared sleeping areas or bathrooms, the Equal Access Rule permits shelter providers to ask potential clients and current clients seeking a new assignment their sex. Best practices suggest that where the provider is uncertain of the client’s

sex or gender identity, the provider simply informs the client or potential client that the agency provides shelter based on the gender with which the individual identifies. There generally is no legitimate reason in this context for the provider to request documentation of a person's sex in order to determine appropriate placement, nor should the provider have any basis to deny access to a single-sex emergency shelter or facility solely because the provider possesses identity documents indicating a sex different than the gender with which the client or potential client identifies. The provider may not ask questions or otherwise seek information or documentation concerning the person's anatomy or medical history. Nor may the provider consider the client or potential client ineligible for an emergency shelter or other facility because his or her appearance or behavior does not conform to gender stereotypes.

C. Privacy

If a client expresses safety or privacy concerns, or if the provider otherwise becomes aware of privacy or safety concerns, the provider must take reasonable steps to address those concerns. This may include, for example: responding to the requests of the client expressing concern through the addition of a privacy partition or curtain; provision to use a nearby private restroom or office; or a separate changing schedule. The provider must, at a minimum, permit any clients expressing concern to use bathrooms and dressing areas at a separate time from others in the facility. The provider should, to the extent feasible, work with the layout of the facility to provide for privacy in bathrooms and dressing areas. For example, toilet stalls should have doors and locks and there should be separate showers stalls to allow for privacy. Note: ESG and HOPWA funds may be used to renovate an emergency shelter to maximize privacy and safety. The provider should ensure that its policies do not isolate or segregate clients based upon gender identity.

D. Training

It is the responsibility of the Sub-recipient to ensure that it and its subrecipients comply with the Equal Access Rule. In furtherance of such, recipients and subrecipients should provide this Notice to staff members and contractors so as to ensure that employees and contractors who interact directly with potential clients and current clients are aware of it and take prompt corrective action to address noncompliance. Moreover, they should provide training to staff on completing intakes consistent with this guidance. If HUD finds a recipient or subrecipient has failed to meet program requirements, HUD may take actions such as those described in 24 CFR 40 576.501 or 24 CFR 574.540. 41.

E. Further Information

In addition to complying with the requirements of the Equal Access Rule as described above, recipients and subrecipients must comply with all of HUD's nondiscrimination and equal opportunity provisions at 24 CFR 5.105.

5. Lead Based Paint Requirements

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, J, K, M, and R of this part apply to activities under this program.

The procedures for HOPWA Habitability Standards inspections must include an inspector's review for compliance with the Lead-Based Poisoning Prevention Act of 1973 and its applicable regulations found at 24 CFR 35, Subpart M. Rental assistance program staff should also consult local or state laws that may apply and be more stringent than Federal law. The lead-based paint regulations require certain responses to potential lead-based hazards.

Disclosure and Notification Requirements.

Disclosure requirements are triggered for ALL properties constructed prior to 1978. These requirements require that lessors (property owners or managers) provide tenants with the following two items:

- HUD's disclosure form for rental properties disclosing the presence of known and unknown lead-based paint; and
- A copy of the "Protect Your Family from Lead in the Home" pamphlet.

Both the disclosure form and pamphlet are available at: www.hud.gov/offices/lead/enforcement/disclosure.cfm.

As stated above, this requirement actually relates to property owners/managers, but sharing this information with your clients (or ensuring they have received it) is an important opportunity to educate clients about the potential hazards related to lead and their rights as tenants.

The Visual Assessment

Regulations require that a visual assessment of existing paint surfaces in dwellings be conducted before leasing the unit, and on an annual basis thereafter as long as assistance is provided. Visual assessments are only triggered under certain circumstances:

- The household living in the unit is being assisted with HOPWA assistance (rent assistance, utilities assistance, utility/security deposits, etc.);
- The unit was constructed prior to 1978; **and**
- A child under the age of six or pregnant woman is or will be living in the unit.

Visual assessments are not triggered under any of the following circumstances:

- It is a zero-bedroom or SRO-sized unit.
- X-ray or laboratory testing of all painted surfaces by certified personnel has been conducted in accordance with HUD regulations, and the unit is officially certified to not contain lead-based paint.
- The property has had all lead-based paint identified and removed in accordance with HUD regulations.
- It meets any of the other exemptions described in 24 CFR Part 35.115(a).

Program staff should make the visual assessment a part of their HOPWA Habitability Standards inspections.

Visual assessments must be conducted by a HUD-Certified Visual Assessor. It is important to note that a HUD-Certified Visual Assessor is not equivalent to a Certified Clearance Examiner.

Anyone may become a HUD-Certified Visual Assessor by successfully completing a 20-minute online training by visiting:

www.hud.gov/offices/lead/training and clicking on “Take the Visual Assessment Course.”

Depending on the results of the visual assessment, additional steps may be required before assistance can be provided for that unit.

Paint Stabilization

If, during the HOPWA Habitability Standards inspection, a visual assessment reveals problems with paint surfaces, program staff should not approve the unit for leasing. The program staff should notify the property owner of the need for paint stabilization. Specific guidelines for paint stabilization can be found in 24 CFR 35.1330(b).

Lead-Based Paint Maintenance

During the annual recertification of the unit, program staff should conduct a visual assessment of the stability of painted surfaces.

Response to a Child with Elevated Blood Lead Levels

If a child under the age of 6 living in a HOPWA leased unit is found to have elevated blood levels, the response process established based on 24 CFR 35.1225 takes effect. Program staff should have an established response policy based on these regulations

Fire Safety

Rental assistance programs are required to comply with the Fire Administrative Authorization Act of 1992 (Act). Policies and procedures should ensure that, during the HOPWA Habitability Standards inspection, program staff adequately reviews housing units to determine if they conform to the Act. The following provisions of the Act are applicable to the HOPWA program:

- The Act limits the payment of rental assistance in connection with newly constructed multifamily units (post-1994) that are four or more stories unless the property is equipped with automatic sprinkler systems and hard-wired smoke detectors.
- For all units, regardless of when the unit was constructed, smoke detectors must be present on each level of the dwelling unit including basements, but excluding spaces and unfurnished attics. At least one battery operated or hard-wired smoke detector must be present.
- All smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standards (NFPA) 74 or its successor standards.
- If eligible persons or members of their household are hearing impaired, the smoke detector must be equipped with hearing-impaired alarm as specified in NFPA 74 or its

successor standards.

Rental assistance programs are not required to pay for the installation of hearing impaired smoke detectors, and HOPWA funds cannot be used if the Recipient chooses to do so.

If the unit does not meet these standards, rental assistance cannot be approved until the standards are met. HOPWA funds may not be used to install, replace, or repair smoke detectors in any unit. A landlord may be asked to make necessary repairs for the units before they are approved.

6. Nondiscrimination and Equal Opportunity

Within the population eligible for this program, the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5 and the following requirements apply:

7. Title VI of the Civil Rights Act of 1964 as amended in 1988.

Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

8. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, 42 U.S.C. 3601-3619) as amended.

Prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, and familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18).

9. Architectural Barriers Act of 1968.

Requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by persons with disabilities.

10. Section 504 of the Rehabilitation Act of 1973.

Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

11. Title II of the Americans with Disabilities Act of 1990.

Prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

12. Nondiscrimination on the Basis of Disability in State and Local Government Services

Recipient shall comply with the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101-12213) and implementing regulations at 28 CFR part 35 (States and local government grantees) and part 36 (public accommodations and requirements for certain types of short-term housing assistance).

13. Title VI of the Civil Rights Act of 1964 as amended in 1988.

Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

14. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, 42 U.S.C. 3601-3619) as amended.

Prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, and familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18).

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Requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by persons with disabilities.

16. • Section 504 of the Rehabilitation Act of 1973.

Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

17. Title II of the Americans with Disabilities Act of 1990.

Prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

18. 28 CFR 35.130 General prohibitions against discrimination.

- a. No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.
- b. (1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—
 - i. Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
 - ii. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

- iii. Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- iv. Provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others;
- v. Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;
- vi. Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;
- vii. Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) A public entity may not deny a qualified individual with a disability the opportunity to participate in services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

- i. That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
- ii. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's program with respect to individuals with disabilities; or
- iii. That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control or are agencies of the same State.

(4) A public entity may not, in determining the site or location of a facility, make selections—

- i. That have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or
- ii. That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.

(5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.

(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

(8) A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.

- c. Nothing in this part prohibits a public entity from providing benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by this part.
- d. A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- e. (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the ADA or this part which such individual chooses not to accept.

(2) Nothing in the Act or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.
- f. A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the Act or this part.
- g. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.
- h. A public entity may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, the public entity must ensure

that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

28 CFR 35.140 Employment discrimination prohibited.

- a. No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity.
- b. (1) For purposes of this part, the requirements of title I of the Act, as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR part 1630, apply to employment in any service, program, or activity conducted by a public entity if that public entity is also subject to the jurisdiction of title I.
(2) For the purposes of this part, the requirements of section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by a public entity if that public entity is not also subject to the jurisdiction of title I.

28 CFR 35.150 Existing facilities.

- a. *General.* A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—
 - (1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;
 - (2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or
 - (3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with §35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

28 CFR 35.151 New construction and alterations.

- a. Design and construction. (1) Each facility or part of a facility constructed by, on behalf

of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.

(2) Exception for structural impracticability.

- i. Full compliance with the requirements of this section is not required where a public entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.
 - ii. If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.
 - iii. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities, (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.
- b. Alterations. (1) Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

28 CFR 35.161 Telecommunications.

- a. Where a public entity communicates by telephone with applicants and beneficiaries, text telephones (TTYs) or equally effective telecommunications systems shall be used to communicate with individuals who are deaf or hard of hearing or have speech impairments.
- b. When a public entity uses an automated-attendant system, including, but not limited to, voicemail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYs and all forms of FCC-approved telecommunications relay systems, including Internet-based relay systems.
- c. A public entity shall respond to telephone calls from a telecommunications relay service established under title IV of the ADA in the same manner that it responds to other telephone calls.

28 CFR 35.163 Information and signage.

- a. A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.
- b. A public entity shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

28 CFR 35.164 Duties.

This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the public entity.

19. Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

28 CFR 36.201 General.

- a. Prohibition of discrimination. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation.
- b. Landlord and tenant responsibilities. Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract.

28 CFR 36.202 Activities.

- a. Denial of participation. A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class,

directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

- b. Participation in unequal benefit. A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.
- c. Separate benefit. A public accommodation shall not provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.
- d. individual or class of individuals. For purposes of paragraphs (a) through (c) of this section, the term “individual or class of individuals” refers to the clients or customers of the public accommodation that enters into the contractual, licensing, or other arrangement.

28 CFR 36.203 Integrated settings.

- a. General. A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(b) Opportunity to participate. Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different.

(c) Accommodations and services. (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available under this part that such individual chooses not to accept.

(2) Nothing in the Act or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

28 CFR 36.204 Administrative methods.

A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common

administrative control.

28 CFR 36.205 Association.

A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.