



February 21, 2024

Ethan Handelman
Deputy Assistant Secretary
Office of Multifamily Housing Programs
U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410

RE: Interim Deadline Delay for HOTMA Implementation

Dear Deputy Assistant Secretary Handelman:

On behalf of the undersigned organizations, we applaud HUD's recent improvements to implementation of the Housing Opportunity Through Modernization Act (HOTMA), which will improve the housing stability of HUD-assisted residents and streamline property operations.

The undersigned organizations are grateful for the corrected guidance, and we urgently request that HUD delay the interim compliance date for certain community policies until May 31, 2024.

Delaying the deadline for certain HOTMA-compliant community policy updates will give housing providers the opportunity to review and implement the crucial new asset limit implementation guidance made available by HUD less than 60 days prior to the previously established deadline.

Asset Limit Discretionary Enforcement Options and Disqualifying Property Exemptions

On February 2, 2024, HUD reissued Notice H 2023-10, "Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)." The new version corrects HUD's earlier interpretations of asset limit enforcement and better aligns HUD's implementation with the HOTMA statute, as requested by the undersigned groups in 2023.ⁱ

In particular, the newly clarified discretionary enforcement authority allows housing providers to protect in-place residents from losing housing subsidy due to asset restrictions established under HOTMA. In addition, HUD's clarifications of exemptions to "real property suitable for occupancy" will help keep more low-income households eligible to move into HUD-assisted communities. Lastly, HUD's clarifications allow more streamlined asset management by reducing the instances in which housing providers must obtain third-party verification of certain assets.

The undersigned organizations thank HUD for the corrected Notice.

Delayed Interim Deadline for Community Policy Updates

It is critical that HUD allow housing providers adequate time to be made aware of and appropriately implement the newly clarified asset limit exemptions and enforcement discretion. Currently, HUD is requiring housing providers to update their Tenant Selection Plans (TSPs) and EIV policies by March 31, 2024, despite the fact that implementation of those community policies will not occur until later in CY2024 (likely late summer, according to HUD), and full compliance is not required until the end of year.

Without more time, housing providers will likely rush to update their community policies without fully reviewing or understanding the very recently issued guidance from HUD. In addition, housing providers and residents alike may misunderstand the difference between the interim deadline to update policies and the later implementation date, which is already causing confusion and may lead to pre-mature implementation that is out of compliance with current leases and current property policies.

We request urgent action by HUD to provide 120 days' notice for implementation requirements by delaying the interim HOTMA deadline of until May 31, 2024. A new interim deadline of May 31 will still allow providers ample time prior to the full compliance date of January 1, 2025, for any corrections or adjustments. In addition, delaying until the end of May puts the deadline for updating community policies closer to the actual date when providers will implement those policies. Most importantly, it will give providers enough time to understand the new asset limit enforcement options, to update policies in a way that best serves the community's residents, and to more clearly communicate to residents about the property's HOTMA implementation decisions and impacts.

We also request that HUD amend its recent guidance to the Performance Based Contract Administrators (PBCAs) requiring them to cite providers who do not meet the current March 31 deadline to update the Tenant Selection Plan. Further, HUD should allow PBCAs to review amended Tenant Selection Plans remotely if they choose to do so.

Thank you for your urgent action to improve HOTMA implementation. Please direct any questions to Juliana Bilowich, LeadingAge's Director of Housing Operations and Policy, at jbilowich@leadingage.org

We look forward to our continued partnership.

Sincerely,

LeadingAge

National Affordable Housing Management Association

National Housing Law Project

National Leased Housing Association

Stewards of Affordable Housing for the Future

ⁱ <https://leadingage.org/leadingage-urges-hud-action-on-hotma/>