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LARGE FAMILIES FACE HIGHER RENT BURDENS AND FEWER HOUSING OPPORTUNITIES UNDER NEW HUD RENT RULES

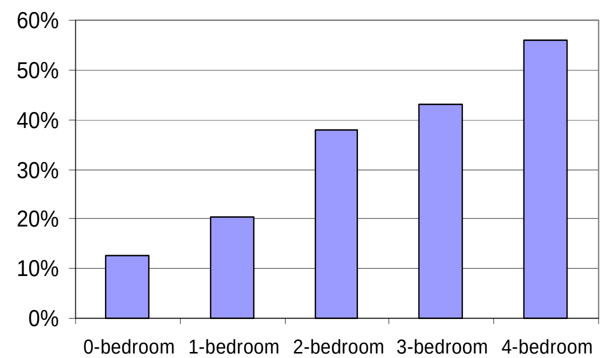
Shift in Method Used to Set "Fair Market Rents" Results in Unannounced Program Cutback

by Will Fischer, Barbara Sard, and Tara O'Neill

On October 1, 2004, HUD put into effect new rent standards — known as Fair Market Rents or FMRs — that will be used to set maximum rent levels for the "Section 8" housing voucher program and other low-income housing assistance programs during fiscal year 2005. In many local areas, the Fair Market Rents for 2005 for apartments with three and four bedrooms contain sharp reductions compared to the levels used during fiscal year 2004.

These cuts will result in higher rent burdens and other adverse consequences for low-income families with children, who make up virtually all of the assisted households that live in larger housing units. Low-income families with three or more children are particularly vulnerable to such cuts. The cuts are likely to affect Hispanic families disproportionately, since they tend to have more children.

Figure 1: Percent of Renter Households Living in Areas Facing Cuts in FMRs by Bedroom Size



Many of the deepest cuts result from a unilateral, unannounced change that HUD made in the method it uses to set Fair Market Rents. In establishing the Fair Market Rents, HUD ensures that the FMRs for larger housing units in an area (i.e., units with three or more bedrooms) are at least a certain percentage above the FMR for a two-bedroom housing unit in the same area. This is done in recognition of the fact that rents are higher for apartments with more bedrooms and that larger families have long been found to encounter more difficulty than other families in finding units that they can rent with their vouchers. This longstanding practice is intended to enable larger families to have similar opportunities to find apartments they can rent with their vouchers to those that single individuals and families with one or two children have.

In setting the new 2005 FMRs, HUD cut the minimum percentage by which the Fair Market Rents for larger apartments must exceed those for two-bedroom apartments. This will make it more difficult for many large families with children to find apartments they can rent with their vouchers, unless they either pay significantly more in rent out of their own limited incomes or they move to higher-poverty areas where the rents are lower, but crime tends to be higher, schools tend to be poorer, and jobs are more scarce.

Furthermore, HUD made this change in a secretive manner. HUD never disclosed it was making this change when it issued the proposed Fair Market Rents for comment in early August (four months later than the proposed FMRs are traditionally issued for comment). Because HUD did not disclose this change, local housing agencies, tenants, and Members of Congress were effectively denied an opportunity to comment on it. Thus, the change essentially amounts to a stealth cut in the Section 8 program.

New Fair Market Rents Cut Rent Standards Sharply and Disproportionately for Apartments with Three or More Bedrooms

HUD sets Fair Market Rents each year for more than 2,000 metropolitan areas and rural counties across the country. Generally, the Fair Market Rent is the amount for an area that is sufficient to cover rental charges for 40 percent of the housing units in the area. HUD sets the FMRs for each area at different levels for units with different numbers of bedrooms.

In issuing the final 2005 FMRs last week, HUD reduced the rent standards sharply for larger housing units in many areas. (HUD dropped its proposal to alter the geographic areas used to set the FMRs, in the face of substantial negative comment, but proceeded to change the method used to calculate the FMRs for large-bedroom units, which drew little comment because of HUD's failure to disclose it.)

The result is widespread cuts in the FMRs for large-bedroom units. In areas with about half of all rental households in the United States, the new FMRs for three- and four-bedroom apartments are lower than the FMRs used in 2004. In a number of other areas, FMRs for large-bedroom units may be at or modestly above the 2004 levels but the increase may be too small to cover the increases in rental costs in the area.[1] Some of the largest reductions in the FMRs for four-bedroom units are listed in Table 1.

That the larger units have been singled out for larger cuts can be seen by comparing changes in FMRs for two-bedroom units to the changes in the FMRs for four-bedroom units. For example, in nearly 100 counties, HUD slashed the four-bedroom FMR by more than 10 percent — a very large reduction — while the two-bedroom FMR for the area remained the same or increased in response to rising rents. (Tables showing FMR changes in every county in the nation are available at http://www.cbpp.org/10-12-04hous-states.htm.)

[1] Some 43 percent of renter households live in areas in which the 3-bedroom FMR for 2005 is lower than the 3-bedroom FMR for 2004. 56 percent of renter households live in areas in which the 4-bedroom FMR was cut below last year's level. (These calculations use renter population data from the 2000 Census.)

Contrary to HUD Claims, Large-Unit FMR Cuts Stem from Unannounced Policy Change

In an October 12, 2004, Associated Press article, HUD Assistant Secretary Dennis Shea was reported to have claimed that the changes in large-unit Fair Market Rents discussed in this analysis "were published in the Federal Register and were subject to a public comment period" and that the changes occurred because "HUD was required by law to revise fair rent formulas using updated housing and populations statistics from the 2000 census." These claims are highly misleading.

HUD did publish proposed 2005 FMR levels on August 6 and allow a 30-day comment period before the FMRs went into effect. (This comment period was much shorter than the periods allowed in previous years.) The proposed changes in Fair Market Rent levels for local areas, however, were driven by a multiplicity of factors, including the use of newly available Census rent data, shifts in the boundaries of the local areas used to set the FMRs, and at least three major changes in the method by which HUD calculated FMRs. It was impossible for the public to discern what was causing the reductions in the proposed FMRs for larger units by looking at the 2005 FMR levels that HUD issued for comment.

That problem could have been addressed if HUD had been forthcoming about the changes it was making in the formula for determining large-unit FMRs. But HUD essentially concealed these changes. As discussed in this analysis, the key change that HUD has made with regard to the FMRs for large units is a reduction in the minimum percentages by which the FMRs for units with three or four bedrooms must exceed the FMRs for two-bedroom units in the same area. In setting the 2005 FMRs, HUD lowered the minimum percentage by which the FMR for a four-bedroom unit must exceed the FMR for a two-bedroom unit in the same area from approximately *40 percent* of the two-bedroom FMR to *23 percent* of the two-bedroom FMR. HUD also lowered the minimum percentage difference between the FMRs for three-bedroom units and FMRs for two-bedroom units in the same area from about 25 percent of the two-bedroom FMR to 20 percent.

When HUD published proposed the 2005 FMRs in August, the only clues of this policy change were the minimum difference factors for larger units that were listed in the notice. HUD gave no indication, however, of the significance of these factors: it failed to provide any information on the factors used in previous years (which most people reviewing the proposed FMRs would not know on their own). *HUD failed even to disclose that the new minimum difference factors for larger units represented a reduction.* This effectively prevented most individuals, agencies, and property owners who were reviewing the proposal from commenting on this matter. It was not until October 1 — the day the new FMRs went into effect — that HUD acknowledged that the new minimum difference factors were lower than those used previously. Even then, HUD failed to disclose the magnitude of the reduction.

Assistant Secretary Shea's implication that the changes in the minimum difference factors for the large-unit FMRs stem from a legal requirement that HUD update the FMRs based on 2000 Census data also is inaccurate. First, it appears implausible that moving the basis for part of the FMR calculations from 1990 census data to 2000 census data could cause a drop in the minimum difference factors of this magnitude. In the nation as a whole the difference between market rents for two-bedroom units and four-bedroom units narrowed during the 1990s by only three percentage points, a shift that would be unlikely to justify HUD's 17 percentage point reduction in the adjustment factor for four-bedroom units.

Second, even if the cuts in large-unit FMRs had stemmed solely from the use of more recent Census data, HUD would *not* have been legally required to institute these cuts. HUD is generally required to update FMRs using the most recent data, but it also has the legal authority — and indeed an obligation under the Fair Housing Act — to boost large-unit FMRs whenever doing so is necessary to provide adequate housing opportunities to large families. This authority clearly allows HUD to take action to avoid sharp cuts in large-unit FMRs, particularly since recent research shows that large families already have more difficulty finding units they can rent with their vouchers than other households do.

Table 1: Reductions in Four-Bedroom Fair Market Rents in Some of the Hardest Hit Metropolitan Areas		
	Change in Four-Bedroom FMR from 2004 to 2005	
Metropolitan Area	Dollar Change	Percentage Change
San Jose, CA	-$845	-30.2%
Waterbury, CT	-$294	-23.9%
Culpeper County, VA	-$271	-22.1%
Brazoria, TX	-$263	-22.0%
Richland-Kennewick-Pasco, WA	-$240	-19.9%
Boston, MA-NH	-$408	-19.6%
Rapid City, SD	-$197	-19.2%
Bismarck, ND	-$175	-18.8%
Trenton, NJ	-$281	-17.7%
New Orleans, LA	-$192	-17.6%
Bloomington, IN	-$194	-17.2%
Greenville, NC	-$169	-17.2%
Dutchess County, NY	-$269	-16.8%
Auburn-Opelika, AL	-$131	-16.0%
Atlanta, GA	-$228	-15.0%
Peoria-Pekin, IL	-$134	-13.7%
Sumter, SC	-$103	-13.5%
Biloxi-Gulfport-Pascagoula, MS	-$124	-13.2%
State College, PA	-$113	-11.9%
Naples, FL	-$144	-11.7%
Detroit, MI	-$130	-11.6%

Higher Rent Burdens and Reduced Housing Opportunities for Larger Families

These sharp reductions in the FMRs for large units are likely to have serious consequences for low-income families. Families with children will bear the brunt of these changes, since they account for virtually all of the households with vouchers who live in housing units with three or more bedrooms.

In areas where the reduction in the FMR is large, the maximum amount of rent that can be covered by vouchers that are used to rent large units will be reduced substantially. When the maximum rent that a voucher can cover declines markedly, families must either pay all of the rent above that level themselves, which can be difficult for families that typically live below the poverty line, or find an apartment with a rent below the new level. In areas where the new FMRs are set substantially below the previous FMRs, a significant number of families with vouchers are likely to be forced to locate in poorer neighborhoods in which rents are close to the new FMRs but crime rates may be higher, employment opportunities may be fewer, and schools may be of lower quality.

HUD's 2005 FMR Process: Big Changes, Little Opportunity for Public Involvement

The final 2005 FMRs are significantly different from the 2004 FMRs in an unusually large number of local areas. In 99 percent of the nation's counties, the 2005 FMR for at least one unit size is at least five percent lower than or higher than the 2004 FMR. By contrast, a year ago, FMRs went down or up this much in less than two percent of the nation's counties. (For additional information on national and regional trends in the 2005 FMR levels, see Appendix A.)

The shift in HUD's method for setting large-unit FMRs discussed in this analysis is only one of several factors that caused major FMR changes to occur in so many areas. The 2005 FMRs were the first to make use of rent data from the 2000 Census. This led to greater changes compared to the 2004 FMRs, which were set using less comprehensive and reliable rent data drawn from other sources. HUD also made several other changes in its method for calculating FMRs. For example, HUD altered a statistical adjustment it makes to ensure that rural FMRs are set at an adequate level and another adjustment that is designed to exclude public housing projects and substandard housing units from FMR calculations. HUD has not made sufficient information available to the public to determine the extent of the impact of each of these methodological shifts.

When it published the final 2005 FMRs, HUD backed away from an additional change it had proposed that would have caused even larger changes in FMRs. In setting the proposed FMRs it published in August, HUD grouped counties and towns together using geographic "FMR area" boundaries that were very different from the boundaries it used in 2004 and previous years. HUD's boundary changes caused very large increases and decreases in FMR levels in many local areas. In response to public comments criticizing the boundary shift, HUD reverted to using the boundaries it had used in 2004 and before when it set the final 2005 FMRs.

While this change had the positive effect of reducing the number of areas that experienced extremely large FMR changes, HUD implemented it in a manner that resulted in an unprecedented curtailment of the normal process for allowing public comment on FMR changes. When it published proposed 2005 FMRs in August, HUD established an unusually hurried timeline for finalizing the FMRs. Local communities were allowed only 30 days to submit comments before the FMRs went into effect, compared to 90 days in previous years. This short comment period undermined HUD's ability to ensure that the FMRs were set accurately. (For additional information on the harmful consequences of HUD's inadequate comment period, see *"Hasty Changes to HUD's 'Fair Market Rents' Would Disrupt Housing Assistance,"* available on the internet at http://www.cbpp.org/9-16-04hous.htm.)

In areas where the final FMRs were lower than the proposed FMRs as a result of the return to the pre-existing geographic areas, the process was even more truncated. Because these reductions did not show up in the proposed FMRs, local communities saw the cuts for the first time when HUD published the final FMRs on October 1. Consequently, these communities had no opportunity at all to comment on the cuts before they went into effect. In the past, HUD has not instituted FMR cuts without allowing a comment period. To the contrary, if HUD determined, based on additional rent data gathered after proposed FMRs were published, that the FMR should be below the proposed level, it did not put the reduction into effect until the following year.

Furthermore, because lower maximum rents reduce the range of housing units that a family can afford to rent, more families with children will find themselves unable to rent any unit with their voucher within the time limit (usually 60 days) that local housing agencies allow for a family to lease a unit with its voucher. Families that do not find a unit that they can rent with their voucher within the time limit *lose* the voucher.

Since families eligible for vouchers have incomes too low to rent decent, unsubsidized housing in the local market without paying very high percentages of their limited incomes for rent, families that are forced to relinquish their vouchers may have to divert limited resources away from items such as food or child care or live in overcrowded or substandard housing. In some cases, they may become homeless. Large families already tend to be more likely than other segments of the population to experience high rent burdens or otherwise to encounter difficulty making ends meet.

Families that currently have vouchers and remain in their current homes should not immediately face the adverse consequences of these reductions in the FMRs; they are given a grace period of one to two years before being affected by such changes. But the changes will apply to them eventually.[2] And families that are newly entering the program, as well as current voucher holders who move (to pursue a job opportunity, flee an abusive situation, leave an apartment that the landlord no longer wishes to rent, or for another reason) will be affected immediately.

Shift in HUD Calculations Lowered FMRs

Many of the deepest cuts in large-unit FMRs reflect a change in the method that HUD uses to calculate the FMRs. For more than two decades, HUD has made statistical adjustments to market rent data to ensure that FMRs for larger units are set at levels that provide families with three or more children an adequate opportunity to find units they can rent with their vouchers. One component of this adjustment has been to set the FMRs for larger units at no less than a specified percentage above the FMR for a two-bedroom unit in the area. If the FMR for a larger-size unit would otherwise be set above the FMR for a two-bedroom unit by less than this percentage, HUD raises the FMR for the larger unit accordingly.

In setting the FMRs for 2005, HUD lowered the minimum percentage difference between FMRs for two-bedroom units and FMRs for three-bedroom units in the same area from approximately 25 percent of the two-bedroom FMR to 20 percent. HUD lowered the minimum percentage difference between FMRs for two-bedroom and four-bedroom units more sharply, from about 40 percent of the two-bedroom FMR to 23 percent.[3] As discussed in the box on page

[2] Moreover, senior HUD staff have indicated that they are considering removing this grace period in order to reduce voucher costs.

[3] In addition to establishing minimum percentage differences between two-bedroom FMRs and the FMRs for larger units, HUD raises all large-unit FMRs by a fixed percentage: 8.7 percent for three-bedroom FMRs and 7.7 percent for four-bedroom FMRs. The minimum percentage differences we list in the text are the actual minimum differences that HUD permits in FMR levels, after the 8.7 percent or 7.7 percent "boost" is included. In the notice accompanying the final 2005 FMRs, HUD reported only the minimum differences permitted before the boost is

3, HUD did not announce these changes to the public when it issued proposed 2005 FMR levels on August 6. At that time HUD published new minimum difference factors, but it provided no indication that they were lower than the factors used previously.[4] On October 1, the day the new FMRs went into effect, HUD acknowledged that the new factors represented a reduction, but failed to disclose the magnitude of the reduction.

HUD's policy of making statistical adjustments to ensure that FMRs for large units are set at adequate levels was instituted as a result of extensive evidence that large families were less likely than other households to be successful in finding an apartment they could rent with their voucher. This problem can arise because landlords prefer not to rent to families with several children or because large units are less numerous than other units, making vacant apartments harder to find. As recently as 2001, a HUD-sponsored study found that large families continue to have less success than other households in using vouchers.[5] Indeed, HUD acknowledged in the notice accompanying the new 2005 FMRs that large families "have the most difficulty in leasing units."

These facts suggest that HUD should be ensuring that any changes in the adjustments it makes to FMRs have the overall effect of expanding housing opportunities for large families with children — or at a minimum, not reducing those opportunities. The change that HUD has just made in setting the large-unit FMRs for 2005 is a substantial step in the opposite direction.

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applied; consequently the minimum differences reported by HUD are somewhat lower than the actual minimums we list here.

In 2004 and before, HUD allowed two-bedroom-to-four-bedroom FMR differences for some rural counties that were somewhat below the minimums; it is unclear why these exceptions were made. Both in 2005 and before, HUD also has set *maximum* percentage differences between two-bedroom FMRs and large-unit FMRs. In setting the 2005 FMRs, HUD raised the maximum percentage differences for three- and four-bedroom FMRs, which resulted in higher FMRs in some areas. The reduction in the minimum percentage difference affects far more renter households, however, than the increase in the maximum percentage difference.

[4] It turned out — apparently due to a mistake in the notice accompanying the proposed FMRs — that the minimum difference factors published by HUD on August 6 were not the minimums HUD used in setting the FMRs. The actual minimums were not accurately disclosed until October 1.

[5] Families of five or more had significantly lower success rates than smaller families with children and non-elderly disabled individuals. Meryl Finkel and larry Buron, *Study on Section 8 Voucher Success Rates Volume I* (2001).

FMR Changes are Latest in a Series of HUD Actions Disrupting the Voucher Program

The change HUD has made to the method for setting FMRs is part of a larger pattern of disruptive HUD actions that have buffeted the housing voucher program during 2004. (For further information on these actions, see http://www.cbpp.org/housingvoucher.htm.) Most significantly, in April 2004, HUD made a major shift in the method by which it distributes voucher funding to housing agencies. Under the new formula HUD instituted, many housing agencies received less funding than they needed to make payments to landlords for the vouchers they administer and consequently had to cut back their programs. HUD opted to make this change even though Congress had provided it with sufficient funding and legal authority to support all of the vouchers in use.

HUD implemented the new policy in an inept and disruptive manner. HUD did not announce the changed funding policy until April, withheld key details about the policy until June, and still has not provided a complete explanation of some aspects of the new policy. But the policy was made retroactive to January. As a result, housing agencies that received more funds in the first part of the year under the formula in effect at that time than they would have received under HUD's new formula not only had to shrink their programs going forward to the level supported by the new formula, but also had to institute further cuts to make up for the "overpayments" they received during the first part of the year.

In addition, the Administration has sought more radical changes to the voucher program. The Administration's fiscal year 2005 budget proposed to convert the program to a block grant, remove nearly every existing federal rule that protects low-income families in the program, and cut the program's budget by more than $1.6 billion in 2005 and $4.6 billion a year by 2009. These proposals have been accompanied by repeated rhetorical attacks on the voucher program by Administration officials. For example, HUD Secretary Alphonso Jackson characterized the voucher program as "broken" in an August 6, 2004 op-ed piece in the *New York Times* — even though the Administration's own Office of Management and Budget reported as recently as 2003 that the voucher program demonstrated "improved efficiencies and cost effectiveness in achieving program goals each year" and that independent evaluations "indicate that the program is effective and achieving results."

While each of these actions considered on its own has been harmful, there is a risk that taken together they will do larger damage by undermining confidence in the reliability and effectiveness of the voucher program. Landlords are likely to be less willing to rent apartments to voucher holders if they do not believe that the federal government will stand behind its commitment to fund all authorized vouchers. It also is extraordinarily difficult for state and local housing agencies to manage the voucher program effectively when they cannot predict how much funding they will receive or whether basic program rules will be changed in the near future with little or no notice. Ongoing uncertainty about the reliability of voucher subsidies also creates needless anxiety in the lives of low-income households with vouchers, which consist primarily of working families, senior citizens, and people with disabilities. Many of these families already struggle to make ends meet, and they rely on voucher assistance to enable them to afford decent, modest housing.

Appendix A

Table 1: Regional Impacts of Changes to Fair Market Rents from 2004 to 2005

Census Region	States	Percent of All Renter Households Living in Areas with Decrease in FMR from 2004 to 2005 by Bedroom Size					
		0-BR	1-BR	2-BR	3-BR	4-BR	Any Bedroom Size
New England	CT, MA, ME, NH, RI, VT	9.7%	44.8%	52.6%	63.8%	77.2%	85.8%
Middle Atlantic	NJ, NY, PA	42.5%	44.3%	51.5%	57.8%	87.8%	89.4%
East North Central	IL, IN, MI, OH, WI	3.6%	10.0%	34.6%	43.3%	63.8%	67.8%
West North Central	IA, KS, MN, MO, ND, NE, SD	3.1%	7.1%	29.2%	36.1%	43.7%	54.3%
South Atlantic	DC, DE, FL, GA, MD, NC, SC, VA, WV	4.9%	14.8%	37.1%	51.7%	59.8%	66.0%
East South Central	AL, KY, MS, TN	3.8%	6.4%	15.1%	38.5%	44.9%	54.2%
West South Central	AR, LA, OK, TX	3.8%	4.4%	32.7%	38.5%	49.9%	56.6%
Mountain	AZ, CO, ID, MT, NM, NV, UT, WY	7.0%	5.7%	34.7%	10.5%	24.0%	47.2%
Pacific	AK, CA, HI, OR, WA	14.0%	24.2%	34.4%	29.7%	32.2%	41.0%
Nationwide		12.4%	19.4%	37.0%	42.4%	55.6%	62.9%

Table 2: Households Living in Metropolitan and Non-Metropolitan Areas with Decrease in Fair Market Rent from 2004 to 2005

	Percent of All Renter Households Living in Areas with a Decrease in FMR from 2005 to 2004 by Bedroom Size					
	0-BR	1-BR	2-BR	3-BR	4-BR	Any Bedroom Size
Renter Households in Metropolitan Areas	12.9%	21.1%	41.0%	47.0%	60.3%	66.8%
Renter Households in Non-Metropolitan Areas	12.1%	13.6%	19.4%	20.2%	30.3%	43.6%