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Promoting Work among Residents of Public Housing:

The Role of Welfare Agencies in Implementing the Earned Income Disregard

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In 1998, Congress passed federal housing legislation designed to promote work among residents of public housing. The legislation requires that an earned income disregard be applied in calculating the rental charge that certain public housing residents must pay, so that rents do not jump substantially when a family goes to work or increases its work hours. Unfortunately, however, many families eligible for the earned income disregard are not currently benefitting from it. Although this disregard is mandatory, many public housing agencies (PHAs) have been slow to implement it. A large number of PHAs — perhaps even a majority — have yet to institute the disregard.

In addition, many PHAs do not understand the full range of public housing residents that can qualify for the disregard and are not informing non-working residents they can receive this disregard if they go to work. For the disregard to be successful as an employment incentive, residents who are not working or are working limited hours must be aware of it. The purpose of this paper is to inform welfare agencies about the earned income disregard that is part of the public housing program and to explain how they can help PHAs implement the disregard effectively.

Families living in federally-assisted housing generally are required to contribute 30 percent of their income (after certain deductions) for rent and utilities. As a household's earnings increase, its rent thus increases as well, reducing the household's net gain from work. Under the earned income disregard provision enacted in 1998, public housing residents who are receiving or have recently received TANF benefits and go to work, as well as certain other families, pay *no additional rent for 12 months after their earnings increase*. In the second 12-month period, only half of the household's increased earnings are considered in calculating rent. By delaying these rent increases, the disregard helps families secure a greater increase in disposable income when they go to work and frees up funds that families can use for work-related expenses such as clothing and transportation.

Welfare agencies (as well as public housing agencies) stand to benefit from this disregard. Approximately 190,000 families that live in public housing — more than 36 percent of all families with minor children that live in such housing — receive TANF monthly cash benefits in a given month.[1] An additional number recently received such benefits. Still others receive other TANF-funded supports. The earned income disregard provides a financial incentive for these families to start work or increase their earnings. As explained below, it also can encourage work among families that already have left welfare and other families with little or no work history.

Welfare agencies and other service providers that understand the earned income disregard used in the public housing program can advise families about the disregard as part of encouraging them to work. These organizations also can help PHAs identify potential recipients of this disregard.

This paper is designed to equip welfare agencies and service providers with the information necessary to achieve these goals. The first section explains how the disregard works. The second section explains who is eligible for it. The final section discusses possible strategies welfare agencies can employ to assist in the effective implementation of the disregard.

What Is the Earned Income Disregard and How Does It Work?

The earned income disregard provision of the 1998 law requires public housing agencies to disregard 100 percent of qualifying families' increased income from employment when determining these families' rent for the 12 months after the increase in earnings occurs. This means that families' rents do not go up in the first year that family members go to work or increase their work hours or wage rates. For a second 12-month period, the rent increase is half of what it would be without the disregard. If TANF benefits go down when a family's earnings go up, the disregard applies only to a family's net increase in income. As a result, a family with more total income pays more rent in the second year of the application of the disregard, but still pays only half the rent increase otherwise due.[2] See the example at the end of the paper.

The disregard is a once-in-a-lifetime benefit for each individual in a household; the 24 months of the individuals' disregard must be used within four years of the time a household's rent is calculated using the disregard. For example, if a qualifying resident activates the disregard by receiving an increase in pay but loses her job four months later, she has eight remaining months of eligibility for the 100 percent disregard. If the resident gets a new job six months later, the disregard resumes at that point.

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[1] Center on Budget and Policy Priorities computations from data entered by PHAs in HUD's Multifamily Tenant Characteristics System as of May 2001. No data are available on how many families in public housing receive other TANF-funded benefits, such as employment services or one-time payments of various kinds. (Roughly another 500,000 families that receive TANF monthly cash assistance receive housing assistance through the Section 8 housing voucher program and the project-based Section 8 program.) Nationally, public housing residents make up about nine percent of the approximately two million families that receive monthly TANF cash assistance.

[2] The statutory provision is Section 3(d) of the U.S. Housing Act of 1937, 42 U.S.C. §1437a(d). HUD's implementing regulations is 24 C.F.R. § 960.255.

Who Is Eligible?

The following categories of public housing residents are eligible for the disregard:

- **Members of households that are receiving TANF-funded benefits or were receiving such benefits within the six months prior to starting a job or increasing their earnings.**[3] This includes public housing residents who received monthly TANF cash benefits in at least one of the six months prior to starting a new job or receiving a pay increase.[4] It also includes residents who received one-time cash or non-cash TANF benefits such as a payment for car repair or a TANF-funded state Earned Income Tax Credit; such one-time benefits must total at least $500 over a six-month period.[5] Families that receive TANF-funded services such as child care within the six months prior to receiving increased earnings should also qualify for the disregard.[6]

  If any member of a household receives TANF assistance in the six-month eligibility window, all members of the household are then eligible for the disregard.[7] For example, in a household consisting of a grandmother, her 20-year-old son, and her 3-year-old granddaughter in which the grandmother is receiving TANF benefits on behalf of the granddaughter and the son's earnings increase, the household's rent would remain constant for 12 months rather than increasing.

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[3] Those eligible include a family "[w]hose annual income increases as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for Temporary Assistance to Needy Families funded under Part A of title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare to Work (WTW) programs." 24 C.F.R. § 960.255 (definition of "qualified family" subparagraph (iii). See also U.S. Department of Housing and Urban Development, Frequently Asked Questions on the Admissions and Occupancy Rule, February 5, 2001, Section II(C), Q&A # 8 (hereafter "Q&A"). This section of the HUD Q&A is available on the internet at http://www.hud.gov/offices/pih/phr/about/ao_faq2.cfm#2c.

[4] It does not matter if a family receives monthly TANF benefits due to temporary unemployment with a guaranteed date to return to work, such as may occur in cases of pregnancy leave or working for the school system. Q&A # 15.

[5] Q&A # 19.

[6] HUD has directed PHAs to consult with TANF agencies and Welfare-to-Work programs to determine the types of "assistance, benefits or services" in the state are provided under title IV-A of the Social Security Act. See note 3.

[7] Q&A # 20.

An individual who goes to work after being subject to a welfare sanction also is eligible for the disregard if she meets the eligibility criteria for the disregard.[8]

- **Individuals receiving income from employment who were "previously unemployed" for one or more years prior to starting a job.** To be considered "previously unemployed," a person must have earned, during the 12 months prior to starting a job, no more than would be received for 10 hours of work per week for 50 weeks at the minimum wage.[9] (The actual number of hours and weeks worked does not matter, only the amount earned.) If the state has a higher minimum wage than the federal standard, the state minimum wage is used for this calculation. In most states, an individual must not have earned more than $2,575 in the last 12 months to qualify for the disregard under this category.

  Minors who have been working regularly and turn 18 qualify for the disregard under this provision. Federal housing rules exclude minors' earnings from the definition of income. Because the earnings of a minor who turns 18 were not previously counted, the minor is considered to have been "previously unemployed" regardless of the amount he or she earned while age 17.[10] For example, if a minor earns $6,000 while age 17, and has stable earnings for the next three years, the household's rent does not increase due to the child's income until the child turns 19, when half of his or her earnings are considered in the rent calculation. The two years of the disregard expire when the individual turns 20 and all of the individual's earnings count to determine the household's rent.

- **Individuals whose income and earnings increase while participating in an economic self-sufficiency program.[11]** Any program designed to encourage, assist, train, or facilitate the economic independence of public housing residents qualifies, regardless of the funding source. These programs include employment counseling, work placement, basic skills training, education (including community

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[8] Q&A # 21. Public housing families that lose welfare income due to work-related sanctions (or fraud) do not have their rent reduced to reflect their loss of TANF income. If they become eligible for the disregard while subject to the welfare sanction, their rent remains at the amount due prior to the loss of welfare income due to the sanction.

[9] The definition of "previously unemployed" is found in 24 C.F.R. § 960.255 (a).

[10] Q&A # 2.

[11] The statute and HUD's regulation state that an individual is eligible for the disregard if the household's total income increases due to increased earnings while the individual is participating in a "family self-sufficiency program or other job training program." For purposes of eligibility for the earned income disregard, HUD has equated a "family self-sufficiency program or other job training program" with the broad range of "economic self-sufficiency" programs defined at 24 C.F.R. § 5.603(b).

college),[12] English proficiency, financial or household management, apprenticeship, substance abuse or mental health treatment, and other programs designed to prepare a participant for work or that are work-related. A family is not required to be participating in HUD's Family Self-Sufficiency Program in order to qualify for the earned income disregard under this provision.[13]

As of April 20, 2001, disabled persons with section 8 housing vouchers who meet one of the above three criteria also qualify for the disregard.[14]

Strategies for Effective Implementation

A recent HUD study, as well as anecdotal evidence, suggest that many PHAs — perhaps a majority — are not fully implementing the disregard.[15] In addition, many of those PHAs that have incorporated the disregard into their rent computations may not be making non-working residents aware of the disregard. Welfare agencies can encourage PHAs fully to implement the disregard by helping PHAs realize the contribution it can make to welfare reform. They also can help PHAs understand the range of families that qualify for the disregard based on prior receipt of TANF benefits. Finally, welfare agencies can improve implementation of the disregard by informing clients that live in public housing about the disregard. Below are some strategies welfare agencies may wish to consider:

- **Informing clients**. Welfare agencies can train caseworkers to provide information about the disregard to clients, especially clients reporting new employment or increases in earnings, as well as those being urged to enter employment. Agencies also may wish to enclose material on the disregard periodically in mailings of benefit checks or other information. A simple handout

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12 Q&A # 24.

13 For more information on HUD's Family Self-Sufficiency program, see Barbara Sard, *The Family Self-Sufficiency Program: HUD's Best Kept Secret For Promoting Employment And Asset Growth,* April 2001. This detailed analysis of what is known about the effects of the FSS program and why initiating or expanding FSS programs may be in the interests of residents, PHAs and welfare agencies is available on the internet at *http://www.cbpp.org/4-12-01hous.pdf*. The Center has also posed a brief fact sheet on the FSS program in Q & A format *http://www.cbpp.org/5-5-99hous.htm*.

14 24 C.F.R. § 982.201(b)(3), 66 Federal Register 6217, 6226 (January 19, 2001).

15 ORC/Macro, *Quality Control for Rental Assistance Subsidies Determinations*, Department of Housing and Urban Development, Office of Policy Development and Research, May 31, 2001. The study found that 22 percent of public housing households pay more rent than they owe under federal rules. The single largest reason for this, according to the study, is PHA error in determining countable earned income — which in turn is caused in large part by the lack of application of the mandatory earned income disregard.

outlining the disregard provision and what criteria may make a welfare client living in public housing eligible for it also can be useful.

- **Informing public housing agencies**. Welfare agencies can educate PHA administrators on the various ways that current and former TANF recipients can qualify for the disregard. Many PHAs appear not to understand the full range of families that qualify for the disregard, particularly those whose eligibility is due to receipt of non-cash or one-time TANF-funded benefits.

- **Cooperate with PHAs to develop methods to identify eligible households**. Welfare agencies and PHAs can collaborate to develop a questionnaire to identify families that may qualify for the disregard. Such collaboration can be especially important for identifying the types of benefits that families may receive that qualify as TANF-funded. In addition, welfare and housing agencies can work together to develop ways of cross-referencing their clients to identify households potentially eligible for the disregard based on TANF receipt. (Care should be exercised to protect families' privacy rights.) HUD and HHS have published a model Memorandum of Agreement that may be a useful starting point in developing a local or statewide cooperation agreement.[16]

If properly implemented, the earned income disregard can be a useful tool in promoting employment among public housing residents. Welfare agencies should join PHAs in helping implement the disregard; increasing the earnings of low-income families through work is a primary goal of both welfare and housing agencies, and both agencies stand to benefit from such increases. By collaborating to disseminate information on the disregard to potential recipients, welfare and housing agencies can encourage and reward work.

[16] The model agreement is available on the internet at http://www.acf.dhhs.gov/programs/ofa/im002.htm and http://www.hud.gov/offices/pih/publications/notices/00/pih2000-11.pdf.

Example of How the Public Housing Earned Income Disregard Helps Make Work Pay*

Ms. Jones and her two minor children move into public housing in January 2001. She has a part-time job from which she earns $550 per month. She also receives TANF benefits of $200 per month. Based on this total income of $750 per month, her rent is $201 per month. In May 2001, her employer increases her hours to full-time and her gross earnings increase to $1,000 per month. Under the (hypothetical) state's TANF policies, however, Ms. Jones' increased earnings make her ineligible for TANF benefits, leaving her total income at $1,000. With this income and without the earned income disregard (EID), her rent would increase $75 to $276 per month. As a result, moving from part-time to full-time work would only minimally increase Ms. Jones' monthly income: she would lose nearly as much in government benefits ($200 of TANF income, $48 in food stamps and $75 of rent subsidy, for a total of $323) as she gains in monthly net earnings by increasing to full-time work ($415). If Ms. Jones incurs additional work expenses due to working more hours, the change to full-time work may not "pay" at all for Ms. Jones on a monthly basis without the EID. The additional Earned Income Tax Credit payment of $1,368 annually ($114 per month), however, would more than double her $92 net monthly increase in income.

When Ms. Jones' earnings increase to $1,000 she is eligible for the EID based on her prior receipt of TANF benefits. Due to the EID, the $250 per month increase in Ms. Jones' total income considered for rent (from $750 to $1,000, as opposed to the $450 increase in earnings) is excluded from her income in determining her rent. As a result, the "income" used to determine her public housing rent remains $750 per month, and her rent remains $201 for the next 12 months (assuming no other changes in income or family composition). In months 13-24, half of the increased income from earnings, or $125, is excluded from the "income" used to determine her rent. As a result, her rent (again assuming no other changes in income or family composition) would increase $37.50 to $238.50 per month. After two years, the EID expires and her rent increases to $276 per month. This example also illustrates the importance of PHAs advising working residents about the EITC, as the EID alone may not sufficiently offset the decline in TANF and food stamp benefits to make the transition to full-time work pay.

Part-time Work and Welfare Without EID		**Full-time Work, No Welfare, Without EID**		**Full-time Work, No Welfare, First Year of EID**	
Earnings (gross)	$550	Earnings	$1,000	Earnings	$1,000
Payroll deductions	$42	Payroll deductions	$77	Payroll deductions	$77
TANF	$200	TANF	0	TANF	0
Food Stamps	$189	Food Stamps	$141	Food Stamps	$141
Adjusted Income Used for Rent**	$670	Adjusted Income Used for Rent**	$920	Adjusted Income Used for Rent****	$670
Rent	$201	Rent	$276	Rent	$201
*Real monthly net income after rent****	$696	*Real monthly net income after rent****	$788	*Real monthly net income after rent****	$863
EITC (annual)	$2,640	EITC (annual)	$4,008	EITC (annual)	$4,008
Real annual net income after rent including EITC	$10,992	*Real annual net income after rent including EITC*	$13,464	*Real annual net income after rent including EITC*	$14,364

* This example is based on HUD's Q&A # 18 (see n. 3). It assumes that Ms. Jones does not owe state income tax, lives in a state with no state EITC, and does not have any out-of-pocket childcare expenses.

** A dependent's allowance of $40 per month is deducted for each minor child. Food Stamp benefits and EITC payments are not considered income.

*** Earnings after payroll deductions plus TANF and Food Stamp benefits minus rent.

****Increased income from employment of $250 is also excluded.