



MEMORANDUM

Date: 10/4/2010
To: Property Owner and Agents
From: Kris Puleo, Voucher Manager
Subject: Repayment Agreements, Notice H 2010-10

Notice H 2010-10, IX. Investigating and Resolving Income Discrepancies includes instructions regarding what to do when tenant Unreported or Underreported Income is discovered.

When the Owner/Agent (O/A) determines the tenant failed to report or underreported income, the O/A must go back to the time the unreported or underreported began, not to exceed the five-year limitation that the tenant was receiving assistance, in accordance with forms HUD-9887 and HUD-9987-A.

- The O/A must notify the tenant of any amount due
- The O/A must inform the tenant that it is their obligation to reimburse the O/A
 - The O/A must have form HUD-50059(s) on file that was/were in effect during the period(s) the tenant failed to report or underreported income to collect repayment
- Tenants with unreported income that goes back further than five years, can be reported to the OIG
- Tenants are obligated to reimburse the O/A when they have been charged less rent than required by HUD's rent formula due to underreported or failure to report income
- Tenants can repay in a lump sum
- Tenants can enter into a repayment agreement with the O/A
- Tenants can repay in a lump sum and enter into a repayment agreement
- Tenants who do not agree to repay amounts due via a lump sum or repayment agreement may be subject to termination in accordance with their lease agreement (see Paragraph 8-13.A.5 of Handbook 4350.3 REV-1)

Repayment Agreements

- Tenant and O/A must both agree on the terms of the agreement
 - Agreement must be based on an amount the tenant can afford to pay based on the family's income
 - Agreement should not exceed 40% of the family's adjusted monthly income (TTP plus the amount of the of the repayment)
 - Agreement's time period needs to coincide with the amount owed
 - Effective July 1, 2010, any new agreement must include:
 - Total retroactive rent amount owed
 - Lump sum paid at time of execution, if any
 - Monthly payment amount

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- Reference paragraphs from the lease stating where the tenant is not in compliance and may be subject to termination of their lease
 - A clause whereby the terms of the agreement will be renegotiated if there is a decrease or increase in the family's income of \$200 or more per month
 - Verbiage that states the monthly retroactive rent payment amount is in addition to the family's monthly rent payment and is payable to the O/A
 - A statement explaining that late and missed payments constitute default of the repayment agreement and may result in termination of assistance and/or tenancy
 - Signatures and dates from both the tenant and O/A
 - O/As cannot apply a tenant's monthly rent payment towards the repayment amount owed
 - The monthly payment due on the agreement is in addition to the tenant's monthly rent payment (TTP)

Disposition of Funds Received by O/A

- O/As are required to reimburse funds collected (see Chapter 8, Paragraph 20 of Handbook 4350.3 REV-1)
- O/As must complete corrections to prior certification(s) HUD-50059s affected by the income change
 - Computer generated HUD-50059 must include the required tenant and owner signatures prior to submitting the data to the Contract Administrator or HUD (see Chapter 5, Paragraph 31 of Handbook 4350.3 REV-1)
 - O/As must not fail to correct prior certifications to avoid having large negative adjustments appear on the HAP voucher
- Voucher Adjustments
 - When the tenant is subject to a repayment agreement, the O/A must first reverse the full amount of the voucher adjustment created by correcting prior certifications
 - When the tenant pays the entire amount in a lump sum, do not submit a Miscellaneous Accounting Request
 - When the tenant pays a lump sum and enters into a repayment agreement for the remaining amount due
 - O/A must first reverse the adjustment created by correcting the prior certification(s) less the lump sum payment by adding an Owner Agent Request (OARQ), Miscellaneous Accounting Request to the voucher
 - Adjustments for payments received from the tenant per the repayment agreement are made
 - O/A must enter adjustments as negative amounts on the voucher (as an OARQ Miscellaneous Accounting Request)
 - Comment field allows 78 characters to describe transaction
 - When O/A is deducting his/her costs from the payment received from the tenant, the OARQ Miscellaneous Accounting Request will be for the amount collected from the tenant less the O/As costs

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- O/As may retain a portion of the repayments they actually collect from tenants who have improperly reported their income
 - An amount that covers actual costs which is the **lesser of**
 - Actual costs
 - Twenty percent of the amount received from the tenant
 - Amounts retained must be deposited into the property's operating account to offset the expenses incurred
 - Records of receipt and disbursement must be kept for audit purposes
 - Date(s) and amount(s) received from tenant must be recorded
 - Expense(s) incurred must be recorded
 - Amount(s) retained by the O/A must be recorded
 - Voucher date(s) and amount(s) of reimbursement(s) made to HUD must be recorded

If you have questions regarding this memo, please refer to Notice H 2010-10, or contact Kris Puleo at 360-616-7250 or kpuleo@contractmgmt.org.