The lack of suitable, affordable housing is often a major barrier to successful employment of persons with disabilities. Still, various public and subsidized housing programs available to persons with disabilities can sometimes help to overcome this barrier. In addition, a number of rent-based work incentives allow families and individuals entering the workforce to retain more of their income. This chapter will provide a brief summary of the major federally sponsored programs that should be available in all states, with an emphasis on those policies most applicable to persons with disabilities. The reader should keep in mind: a) this is only an overview of the federal programs and their regulations; and b) this overview is based on federal regulations published as of December 8, 2004. State-subsidized housing programs also exist and may offer additional benefits, although they are not covered in this chapter.

The three main types of federal housing assistance programs sponsored by the Department of Housing and Urban Development (HUD) are public housing, tenant-based Section 8 and the project-based housing subsidy programs.

Public housing is owned and operated by local public housing authorities according to state legislation. Housing units take many forms from high-rise apartment buildings to detached single-family dwellings, and may be located at one site or scattered over several sites.

The Section 8 program was established in 1974 as the government’s primary rental housing assistance program. It is generally administered by a state or local public housing agency (PHA). HUD pays rental subsidies so that eligible families can afford safe, decent and sanitary housing. These Section 8 subsidies take the form of tenant-based or project-based assistance. Tenant-based subsidies allow recipients to rent housing in the private market and move with the tenant. The tenant-based subsidies have been merged into the new Housing Choice Voucher Program.

Project-based subsidies are attached to specific units in privately owned and operated buildings. Because the subsidy is attached to the unit, rental assistance generally ends for the tenant when the tenant moves.
HUD’s programs are continually affected by the passage of federal legislation. The *Quality Housing and Work Responsibility Act of 1998* created rent-based work incentives for public housing tenants with new or increased employment income. In April 2000, new regulations expanded these benefits to people with disabilities receiving housing benefits through the HOME Investment Partnerships Program, the Housing Opportunities for People with AIDS program (HOPWA), the Supportive Housing program (24 CFR part 583) and the Housing Choice Voucher program. Proposed regulations amending Part 583 omit any reference to the disallowance of earned income provided in 24 CFR 5.6.17. See 69 FR 43488 at 43496. Effective advocacy may require that you closely examine rent increases linked to increased earned income to confirm that the earned income disregards are being properly implemented in your area.

In this chapter we will provide an overview of the provisions of the federal regulations as they apply to public housing, the Housing Choice Voucher Program, Section 8 project-based assistance, the HOPWA program, the Supportive Housing program and the Homeownership program. We will also provide comprehensive guidelines for assisting individuals with disabilities to determine how increased earned income impacts on housing costs.

**ELIGIBILITY FOR FEDERALLY SUBSIDIZED HOUSING**

Eligibility for public and subsidized housing is based upon citizenship, income and a family’s prior tenant and criminal history if any. Non-citizens with eligible immigration status may qualify for a housing subsidy, if they are otherwise eligible.

HUD uses three terms to describe income eligibility: “extremely low-income,” “very low-income” and “low-income.”

- **An extremely low-income family** is a family whose income does not exceed 30 percent of the median income of an area as determined by HUD.
- **A very low-income family** is a family whose income does not exceed 50 percent of the area’s median.
- **Low-income families** have an income that is no greater than 80 percent of the area’s median income.

Public housing applicants must be low-income families. However, 40 percent of public housing units newly rented each year must be occupied by extremely low-income households. Housing Choice Voucher applicants must be very low-income families. In addition, 75 percent of new admissions in the Housing Choice Voucher program must be extremely low-income families. Section 8 project-based programs must target 40 percent of all annual project admissions to extremely low-income families.
Median income and the various corresponding income limits vary significantly from area to area. The following are examples for FY2003 for a one person family in the public housing or Section 8 housing programs:

<table>
<thead>
<tr>
<th>Location</th>
<th>Extremely Low-Income (30% of Median)</th>
<th>Very Low-Income (50% of Median)</th>
<th>Low-Income (80% of Median)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buffalo-Niagara Falls, NY</td>
<td>$11,250</td>
<td>$18,750</td>
<td>$30,000</td>
</tr>
<tr>
<td>Chicago, IL</td>
<td>$15,850</td>
<td>$26,400</td>
<td>$40,250</td>
</tr>
<tr>
<td>Nassau-Suffolk, NY</td>
<td>$17,900</td>
<td>$29,850</td>
<td>$43,250</td>
</tr>
</tbody>
</table>

There is no asset limit for participation in HUD assisted housing programs. However, annual income does not include net income from family assets. Income, such as interest, may be imputed if the asset is not in an income bearing account.

Your local PHA can provide information about median income and income limits for your area. This information is also available from the HUD website at www.huduser.org.

**Total Tenant Payment**

Federal housing subsidy program rents are income-based. Eligibility and assistance levels are calculated according to a family’s income. In general, families who receive federal housing assistance pay the higher of the following amounts as rent:

- Thirty percent of the family’s monthly adjusted income, or
- Ten percent of the family’s monthly income, or
- If the family is receiving welfare assistance payments, the amount of that assistance that is specifically designated for housing.

The amount that the tenant family is required to pay, based upon the above criteria, is called the **total tenant payment**.

If the cost of utilities (except telephone) is not included in the family rent, a utility allowance equal to a PHA or HUD estimate of the monthly cost of a reasonable consumption of such utilities is established.

For Section 8 programs other than the Section 8 Voucher Program, tenant rent is the total tenant payment minus any utility allowance. Participants in the Section 8 Voucher Program may pay up to 40% of their gross adjusted income for rent.
• Incremental earnings and benefits received by any family member from participation in qualifying State or local employment training programs

• Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse)

• Deferred periodic amounts from SSI and Social Security benefits that are received in a lump-sum amount or in prospective monthly amounts

**Example:** Joan is a single individual who was recently awarded retroactive SSI benefits totaling $20,000. Joan’s total monthly benefit will be $579 and her first retroactive check is for $6,948 (monthly benefit rate of $579 x 12 months). Six months after receiving her first retroactive check, Joan receives a second check for $6,948. Joan continues to receive retroactive lump sums until the $20,000 is paid in full. Joan’s monthly $579 payment is counted as income. The retroactive payments she receives are not.

• Amounts paid by a State agency to a family with a developmentally disabled member living in the home to offset the cost of services and equipment needed to keep the disabled family member at home

• Amounts received by participants in publicly assisted training programs for job-related expenses (such as special equipment, clothing, transportation, child care, etc.)

• Temporary, non-recurring or sporadic income (including gifts)

• Adoption assistance payments in excess of $480 per adopted child

• Refunds or rebates for property taxes on the dwelling unit

In addition, public housing programs (but not Section 8 programs) may exercise broad discretion in adopting additional exclusions for earned income. These income exclusions may include amounts necessary to replace benefits lost due to employment (e.g., medical insurance or other medical costs), amounts paid to individuals outside the family (e.g., child support or alimony), or costs incurred in order to go to work (e.g., the cost of special tools, equipment or clothing).

b. Annual Income Adjustments

The annual income of public housing tenant families is further adjusted by the following mandatory income deductions:

• $480 for each dependent

• $400 for elderly families

• $400 for disabled families [defined as families whose head, spouse or sole member is a person with disabilities, or a family with two or more people with disabilities living together, or one or more persons with disabilities living with a live-in aide(s)]
Example: Roberta receives SSI payments totaling $579 per month. Pursuant to her lease agreement, Roberta is not obligated to report increased income until her annual recertification in December. In July 2005 Roberta begins to work earning $1,085 per month and her SSI check is reduced to $79 per month. Without the earned income disregard, Roberta’s rent would have increased in January 2006. However, because in January Roberta benefited from not having to report her increased income for six months, she is entitled only to six more months of the 100 percent disregard. Beginning in July 2006 and for 12 months thereafter, Roberta’s rent will be calculated based upon a 50 percent disregard.

The following tenant families are eligible for the earned income disregard:

• Families whose income increases as a result of employment of a family member who was previously unemployed (defined as earning no more than would be received for working 10 hours per week for 50 weeks at the established minimum wage in the 12 months previous to employment) for one or more years.

For example, this provision may apply to the income of minors who turn 18.

Example: Jose lives with his wife Rosa and their 17-year-old son Michael who is no longer in school. Jose works 20 hours each week as a janitor, Rosa receives SSI, and Michael works bussing tables. When Michael turns 18, his earnings will no longer qualify for an income exclusion. His family will, however, be entitled to an earned income disregard for the increase in household income attributable to Michael’s earnings.

• Families whose annual income increases due to increased earnings by a family member during participation in a self-sufficiency or other job training program.

Substance abuse or mental health treatment programs may be considered self-sufficiency or job training programs. Similarly, enrollment in a community college (despite the fact that the tenant is not enrolled in a special vocational program) may be considered job training as long as the studies pursued are designed to ready the tenant for work.

Example: Robert receives $579 each month in SSI. He transfers from a day treatment program to a supported employment program sponsored by a mental health rehabilitation program, where he begins to earn $685 each month. Robert’s SSI benefits are reduced to $279. However, his total monthly income increases to $964 ($279 + $685). Because Robert’s monthly income housing authorities increased by $385 ($964 current income minus $579 prior SSI income), he is entitled to an earned income disregard for the additional $385 he receives each month.
• Families with an annual income increase due to new employment or increased earnings during, or within six months after the receipt of TANF-funded assistance (including one-time payments, wage subsidies and transportation assistance totaling at least $500 over a six-month period)

Example: Joan works 15 hours per week and earns $450 each month. She also receives $397 each month in SSI benefits. When Joan’s car breaks down TANF pays a $600 repair bill on her behalf so she can continue to travel to work. Three months later, when Joan’s hours double, Joan is entitled to an earned income disregard for the increase in her monthly income.

d. Individual Savings Accounts

As an alternative to earned income disregards, housing authorities may also offer Individual Savings Accounts for those tenant families who pay an income-based rent. At the option of the tenant family, the housing authority will deposit the total amount that would have been calculated as increased tenant rent resulting from the increased employment income into an interest-bearing savings account. The tenant family may only withdraw the monies deposited in the account for:

• Purchasing a home
• Paying the education costs of a family member
• Moving from public or assisted housing
• Paying other expenses approved by the housing authority that promote economic self-sufficiency

If the family moves from public housing, the housing authority must pay the family any balance in the account, minus any amounts owed to the housing authority.

e. Income Examination Requirements

Federally subsidized housing programs generally use one of two models of income reporting. The first requires the tenant family to report mid-year increases in income as they occur. This reporting model may act as a disincentive to employment for tenants who are faced with immediate rental increases upon entry into the job market. The second model eliminates the family’s obligation to report mid-year income increases, giving newly employed individuals the opportunity to become more financially stable before facing a rent increase.
Since public housing authorities have the option of not requiring tenants to report increases in income between regular annual income re-certifications, tenants should check with their local public housing authority to determine whether an interim reporting requirement exists.

f. Rent Computation Options

Once a year, the public housing authority must offer tenant families a choice of paying either a flat rent or an income-based rent. Families have an opportunity to choose the rent option they consider to be most financially beneficial. The flat rent for a rental unit is based on its actual market value in the private market. The purpose of the flat rent option is to eliminate the disincentive of constantly increasing income-based rent for those families experiencing success in the job market. For families who choose the flat rent option, housing authorities may require income re-certification as infrequently as every three years (rather than annually). Annual re-certification of family composition remains mandatory.

To assist the family in making an informed choice regarding its rent calculation options, the housing authority must tell the family the actual amount of income-based rent and the amount of the flat rent associated with the family’s rental unit each year when the opportunity to elect arises. The housing authority must also advise the family of its policy for changing from flat rent to income-based rent due to hardship.

A family that is paying a flat rent may request a change to payment of income-based rent if the family is unable to pay the flat rent because of financial hardship. The request may be made at any time; the family is not required to wait until such time as the annual option is represented. If the housing authority determines that the tenant family is unable to pay the flat rent, it must immediately allow the requested change to the income-based rent. This requirement is designed to assist families who experience either a reduction in income associated with loss of employment or earnings, or an increase in expenses for reasons including greater medical, child care or transportation costs.

g. Restriction on Eviction of Family Based on Income

As of November 26, 2004, HUD issued a final rule giving public housing agencies the authority to evict over-income tenants in order to make their units available for income-eligible applicants. This authority is discretionary. Formerly, PHAs were prohibited from evicting tenants based on income unless the PHA determined that there was decent, safe and sanitary housing of a suitable size available at a rent less than or equal to the tenant’s current rent. See 24 CFR 960.261.
• Low-income families receive the contribution as calculated for very low-income families (see above), but may not exceed the amount computed for 50 percent of median income.

• Families who are not low-income are not entitled to an FSS account contribution.

When a family successfully completes the FSS program, it will be given the full amount in its escrow account. The family will receive no funds if the program is not successfully completed. There is no limit to the amount that a family may accumulate in its FSS account. The housing authority stops contributing to the account once the FSS contract of participation is completed or terminated.

A housing authority or PHA may elect to disburse funds from the FSS account if a participating family has fulfilled its interim goals and needs a portion of the FSS account funds to pay for education, work-related expenses, or for other purposes related to the goals of the family’s FSS contract.

Further information on the FSS may be found on the Center on Budget and Policy Priorities website at www.cbpp.org.

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

Tenant-based Section 8 rental assistance has been merged into one program called the Housing Choice Voucher Program. The Housing Choice Voucher Program helps very low-income, elderly and disabled families afford safe and sanitary housing in the private market.

Housing Choice Vouchers are administered by public housing agencies generally referred to as PHAs. Sometimes the PHA is also the local Public Housing Authority. The PHA pays a housing subsidy directly to the private landlord on the participating family’s behalf. The family is responsible for paying the difference between the actual rent charged by the landlord and the housing subsidy paid by the PHA. The PHA inspects the unit initially and at least once a year thereafter to ensure that it meets housing quality standards. Some PHAs allow voucher payments to be applied to a mortgage rather than rent payments, giving participating families the opportunity to become homeowners.

1. Eligibility Requirements

As in public housing, eligibility for the Housing Choice Voucher Program is based upon total annual gross income and family size. In general, a family’s income may not exceed 50 percent of the median income of the county or metropolitan area where the family lives.
Example: In Jonesville, the payment standard for a three-bedroom unit is $500. When the Maxwell family initially rents their apartment the rent is $400. The Maxwells’ adjusted monthly income is $900. Their share of the rent is $300 (30 percent of $900). The PHA pays $100. After 2 years, a new owner takes over the property, makes substantial improvements and increases the rent to $550. The PHA pays $200 and the Maxwells pay $350 (representing 30 percent of their adjusted income plus the additional amount in excess of the payment standard). Two years later, the rent is again increased this time to $650. The Maxwells’ adjusted monthly income has also increased and is now $2,000. However, because their share of the rent would exceed the payment standard (30 percent of $2,000 is $600), the Maxwells’ are advised by their PHA that they must relocate to continue to take advantage of their Section 8 subsidy.

Payment standards vary significantly from area to area. The following are examples of Fair Market Rents for one-bedroom units as proposed by HUD for 2005, and the lower and upper limits of the payment standard that can be set by the local PHA. Market rents for other areas are available at www.huduser.org.

<table>
<thead>
<tr>
<th>Location</th>
<th>Fair Market Rent (1 bedroom)</th>
<th>Payment Standard Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buffalo-Niagara, NY</td>
<td>$542</td>
<td>$488 to $596</td>
</tr>
<tr>
<td>Chicago, IL</td>
<td>$820</td>
<td>$738 to $902</td>
</tr>
<tr>
<td>Nassau-Suffolk, NY</td>
<td>$1,037</td>
<td>$933 to $1,044</td>
</tr>
</tbody>
</table>

A PHA may be required to establish a higher payment standard when necessary to rent an accessible unit for a family that includes an individual with a disability.

**SECTION 8 PROJECT-BASED ASSISTANCE**

Section 8 project-based subsidies provide housing assistance to low-income families while they are residing in subsidized units. Because the housing subsidy is connected to the unit, Section 8 assistance generally ends when the family moves.

1. **Eligibility Requirements**

Just as in the Housing Choice Voucher (Section 8) tenant-based program, very low-income or low-income families are eligible for Section 8 project-based subsidies, provided that they are citizens or non-citizens with eligible immigration status. In any fiscal year, 40 percent of all new project admissions must go to very low-income families.
c. Earned Income Disregards

With one exception, the earned income disregards for persons with disabilities extended to the Section 8 Housing Choice Voucher program do not apply to Section 8 project-based housing. The earned income disregards do apply to the new project-based voucher program and also to project-based certificates converted to vouchers. Both of these subsidies are rare. It is therefore safe to assume that a tenant in Section 8 project-based housing will not be entitled to a disregard. On March 18, 2004, HUD issued a proposed rule for the project-based voucher program which will replace the project-based certificate program.

d. Individual Savings Accounts

Individual Savings Accounts as described in the Public Housing section are not available to project-based Section 8 tenants.

e. Income Examination Requirements

The Section 8 project-based housing providers must conduct an annual re-examination of family income and composition. Additionally, the housing provider may adopt policies prescribing when and where a family should report changes in income or family composition. At any time, the housing provider may conduct an interim re-examination, or a family may request an interim determination of income.

If the tenant’s income increases to such an extent that the tenant’s share of the rent is equal to, or exceeds, the total rent owed to the owner, the tenant may remain in the unit but will be required to pay fair market rent for the unit.

SECTION 811 SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

Section 202 and Section 811 Supportive Housing for the Elderly and for Persons with Disabilities offers rental assistance for housing projects serving these specific populations. Projects designed for elderly households often provide a range of services tailored to the needs of their residents, whereas projects for persons with disabilities ensure that residents are provided with necessary supportive services appropriate to their individual needs.

1. Eligibility Requirements

The Section 811 Supportive Housing program assists very low-income disabled households. Disabled households are defined as those composed of:

- One or more persons, at least one of whom is 18 years or older, and has a disability (See detailed definition of person with a disability in the HUD Occupancy Handbook 4350.3 p. 3-41 at www.HUDCLIPS.gov ).
US Department of Housing and Urban Development Project Contacts

- For the **HOME Investment Partnerships Program**, contact Mary Kolesar, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2470.

- For the **Housing Choice Voucher Program**, contact Jerry Benuit, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-0477, ext. 4064.

- For the **Housing Opportunities for Persons with AIDS Program**, contact David Vos, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1934, ext. 4620.

- For the **Rent Supplement Program**, contact Willie Spearmon, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-3000.

- For the **Rental Assistance Payment (RAP) Program**, contact Willie Spearmon, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-3000.

- For the **Section 202 Supportive Housing Program for the Elderly (including Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities)**, contact Aretha Williams, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2866, ext. 2480.

- For **Section 8 Project-Based**, contact Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-3000.

- For the **Section 811 Supportive Housing Program for Persons with Disabilities**, contact Gail Williamson, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2866, ext. 2473.

- For the **Shelter Plus Care Program**, contact Allison Manning, State Assistance Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1234, ext. 4497.