Housing Assistance For Disabled Persons With Modest Incomes

By Thomas P. McCormack *Revised 01/16/04*

Housing Aid Programs Open to Disabled and Other Modest Income Persons

There are four kinds of housing aid programs financed by the United States Department of Housing and Urban Development (HUD):

Publicly- owned or -managed buildings for the disabled, the elderly and disabled or for poor persons in general, run by city, county or (in a few areas) state Public Housing Agencies (PHAs). The buildings for *non*-elderly, *non*-disabled persons are what the public thinks of as "public housing" or "the projects"—often substandard, dangerous complexes. But elderly and disabled persons are almost always housed in *separate* buildings and complexes from the general public housing.

Privately-owned or –managed buildings and complexes for the elderly, disabled or both which offer HUD-financed rent subsidies to their occupants. (These are often referred to as "fixed" Section 8, HUD-assisted, Section 202, Section 236, Section 811 or "fixed" voucher complexes.) Within HUD guidelines, the private managements do priority, admission and rental computation eligibility. The local public housing agency can provide lists of these projects, but does not supervise their operations.

Portable Section 8 certificates, HUD vouchers and so on which assist with the rent and which are awarded by the PHA under its eligibility, priority and rental computation rules and which the applicant then presents to any willing and qualified private landlord.

Shelter Plus Care emergency, temporary and even permanent housing aid—on a group-home or individual-unit basis—for homeless persons, or those at immediate, documented risk of homelessness through no fault of their own (i.e., simply having a high, unaffordable rent, or even being delinquent in paying it, doesn't qualify). This HUD-granted program, set up by the McKinney Homeless Act, now operates almost everywhere and is run by what are called "Continuum of Care" agencies—public housing agencies, public/private partnerships or private non-profits in a given area. These agencies, or their subgrantees, do admission, priority, eligibility and rental determinations. Housing counselors at large ASOs and professional staff at PHAs can tell one what the local Shelter Plus Care/ "Continuum of Care" agency is called, and how to contact it.

In addition, *state housing finance agencies* operate several programs which can subsidize rents for limited income persons, including the federally-aided *Low Income Housing Tax Credit (LIHTC) program,* which is administered by the Internal Revenue Service (IRS) through state housing finance agencies and gives tax breaks to private buildings' owners in exchange for their not exceeding specified rent ceilings for qualified low- income tenants, including the aged and disabled. Some, but not all, states and localities, with their own funds or tax breaks, run their own LIHTC-type programs through state housing finance agencies or local PHAs. Some local PHAs may not readily have at hand lists of buildings tax-subsidized through *state* housing finance agencies. Furthermore, some, but not all, state housing agencies use *Urban Development Block Grant* funds, or *HOME* funds from HUD, to subsidize rents for low-income persons. For details and arrangements, contact the state housing finance agency, which you can locate at http://www.ncsha.org/ncsha/public/statehfadirectory/INDEX.htm. It can also provide lists of any buildings it subsidizes separately from the HUD-subsidized programs.

The US Department of Agriculture funds the *Rural Rental Assistance Program* (Section 521), which offers subsidies which operate similar to HUD's Section 8 program, with renters in rural areas paying 30% of their adjusted income toward their own rent and the program paying the balance. The program is administered by State Rural Development Offices, which take applications, maintain waiting lists and calculate rent amounts and which can be located through www.rurdev.usda.gov/recd_map.html.

Finally, the federal Department of Health and Human Services funds the state-administered *Low Income Energy Assistance Program* (LIHEAP), which helps pay heating and cooling bills for low income aged, disabled and families; and the federal Department of Energy funds state-administered *Weatherization Assistance Programs*, which help pay for insulation, caulking, storm windows, etc. for them. See Sidebar # 5.

How HUD Housing Aid Programs Determine Eligibility

One must live in, or at least be homeless in, the local jurisdiction
For housing subsidies targeted to the elderly or disabled, one must be over age 60, or have been declared *fully* disabled by Social Security. If one doesn't have an SSA determination of disability or award letter a written statement that one meets the SSA definition from the welfare or Medicaid. Agency or a physician is required.
One must have income below 80% (in some areas, 50%) of the area's mean income. (Virtually all homeless persons and those on welfare, Social Security and SSI will easily meet this standard.)
For priority on waiting lists in *many* (but not all) localities one must be homeless; living in overcrowded or substandard housing; have been displaced by urban redevelopment; or be spending over 50% of one's income on housing. (For the Shelter Plus Care program one *must always* be homeless, formerly homeless or at immediate risk of homelessness through no fault of one's own, e.g., not paying even a high rent.)
For the general, *non*-aged, *non*-disabled programs and waiting lists, one *need not* be over 60 or have been found disabled.
Rent to be paid by the applicant is set under all these programs at 30% of *adjusted* gross income, including total, gross Social Security (*before* the Medicare deduction is taken out), SSI, welfare, pensions, wages (*before* taxes and payroll deductions are taken out), VA benefits, retirement checks, actually received child support and all other types of money income. (The 30% rental payment is supposed to cover all utilities—including air conditioning where available-- except for telephone.) Additional rental or utility costs are paid by the housing program, either directly or through various subsidies.

How HUD Housing Aid Programs Set One’s Rent Amount

Rent is set at 30% of one’s *adjusted* gross income. In determining *adjusted* gross income, the following amounts are *deducted* from gross, total income to arrive at the actually countable income:

$33.33 monthly for each disabled or elderly person
$40 monthly for any other dependents in the family
Medical expenses and help and assistance for disabled persons (including insurance and Medicare premiums, deductibles and co-payments and transportation to medical care) which costs more than 3% of one’s gross income
Child care and baby-sitting expenses for someone who works, goes to school or training or to medical care
Any income of children under age 18
Earnings of anyone over age 18 who is a full time student
Training, scholarship, student loan or stipend allowances of a job trainee, student, welfare-to-work participant or vocational rehabilitation client
Income or assets being set aside under a Plan for Self Support authorized by the Social Security Administration for a disabled person’s education or employment
Public housing agencies have the right—and many have done so—to disregard (that is, not count) *part* of the earnings for those living in *public* housing buildings (but *not* for those in privately operated subsidized housing). Those who live in *public* aged /disabled buildings who have—or plan to have--a job should ask whether the agency has such extra earned income disregards.
In 2001, HUD finalized regulations (24CFR5.617) that disregard (in determining housing eligibility and fixing the rent amount) 100% of one’s earnings in the first year back at work, and 50% in the second year, for those on TANF, SSDI or SSI who begin work. (Note that these regulations are *not* applicable to LIHTC-subsidized housing nor to many Section 202 projects either.)

Some Section 202 private buildings for the aged and disabled, as well as those buildings subsidized by the IRS’ *Low Income Housing Tax Credit (LIHTC)* program (as well as any comparable state and local programs) and monitored by *state* housing finance agencies---- while they do give very substantial discounts on rent, and may even take the level of one’s income into account---- are allowed by those programs to charge rents which, while they may well sometimes be discounted, can be considerably *more* than the 30% of adjusted income that HUD programs charge. See Sidebar #3 on details of their eligibility and rent procedures.

How Do Housing Programs Set Priorities and Maintain Waiting Lists?

Privately Managed Buildings with “Fixed” Subsidized Units

First of all, applications—and therefore waiting lists and priorities—aren't even handled by PHAs for the “fixed” Section 8, HUD voucher and other subsidized units in *privately managed* buildings. The private management does that—supposedly using HUD guidelines, but actually exercising its own discretion (and, it must be said, in some instances its own prejudices as well).

Lists of these buildings can be picked up at the offices of the PHA or from the area HUD office (which can be located at www.HUD.gov). .

To apply to these buildings—and there's likely to be many dozens in the typical metropolitan area-- one must call or visit *each* rental office, exercising one's best diplomacy, flattery and assertiveness with the world-wise, often nosy, traditional-minded, middle aged and older women who typically run these buildings.

(They rarely have formal "waiting lists" as such; vacant units wind up being given to those who strike the manager's fancy—or even, in an unknown number of cases, who reward her. Although disabling *diagnoses* aren't supposed to be asked about, this often happens in these settings. And naturally, mentioning HIV, mental health problems or a history of substance abuse will doom one's application—even if one can never prove actual discrimination!)

For privately-managed LIHTC buildings, see sidebar # 3.

Housing Opportunities for People With AIDS (HOPWA) and Shelter Plus Care/Continuum of Care

These programs, too, are probably not directly managed by the locality's public housing agency—they're run by AIDS Service Organizations (ASOs), Ryan White Act-affiliated groups, or other non-profit private agencies. Check with a major ASO—or, as a last resort, with the *professional* staff at the local PHA-- to locate these programs if you don't know where to apply.

Here, documentation that one is disabled already is likely to work in your favor, as is a note or other written proof that you are homeless (including, by the way, notes from the friends or relatives who have only temporarily taken you in---possibly in violation of their own leases-- and upon whose couch you may be sleeping!). Except for those applying literally off the streets for emergency placement in Shelter Plus Care, it's important to provide information and documentation of one's income, health, residency, immediately impending homelessness (again, *not* including loss of housing due to difficult-to-pay rent) and other factors.

Remember that, while it's no longer required by HUD, many local programs still give priority to those who are homeless; at risk of homelessness; doubled up with friends or relatives; paying over 50% of their income on shelter already; or who have been, or shortly will be, evicted through no fault of their own (still again, delinquency in paying a high rent doesn't qualify!).

Some HOPWA and even Shelter Plus Care placements/units may be in group homes or whole buildings or complexes devoted to the program; some may be in "fixed", subsidized units within regular buildings; and, in some cases, it's even possible that these programs may (it's up to them!) issue eligible applicants "portable" vouchers or certificates—which they then take to willing landlords of their own choice.

Aged/ Disabled Buildings Run by Public Housing Agencies and "Portable" Certificates and Vouchers Issued by Public Housing Agencies (PHAs) To Use With Private *Landlords*

Here is where a thoughtful strategy is a must for getting to the top of the waiting list or lists which these agencies almost always have. (You may have heard news reports about incredibly long, or even closed, waiting lists for public housing in your community: Ignore them—the news media almost always is referring to the lists for *non*-aged, *non*-disabled persons!) Aged and disabled vacancies happen often enough—to be somewhat morbid, there's a high "turnover"! —that their waiting list times are much shorter than for the "regular" lists.

Housing agencies can have one master housing waiting list or they can break them down into segmented smaller lists. There might be one for *all* agency-administered housing subsidies, for *all* applicants, whether or not aged or disabled. There could be a separate list for *all* types of housing subsidies for the disabled and aged and a separate list for other applicants (the most common method). Or there could be *four (or even six) lists:* public housing for regular folks; public housing for the aged and/or disabled; "portable" certificates and vouchers for regular folks; and "portable" certificates and vouchers for the aged and/or disabled.

Also, many agencies during the late 1990s received a number of "new" or "extra" certificates and vouchers for use by disabled applicants: Ask whether these have a separate waiting list of their own, or whether they're awarded from the regular waiting list. In short, find out how many lists there are—and get on all you can!

Ask what the waiting list/unit assignment *priorities* of the agency are. HUD once required that agencies give priority to the homeless; those at risk of homelessness; those "doubled up" with friends and relatives'; those paying over 50% of their income on rent; and those displaced by redevelopment. Now, however, local agencies can set their own priorities, Ask what they are—and then be sure to indicate which categories of the local priorities cover your situation so that you can move up the list as quickly as possible.

Negotiating the Housing Aid System

Remember that, under federal law, you *need not* disclose the nature of your disability—and you shouldn't if you can help it. (Of course, HOPWA *does require* that you document that you're HIV-positive—but that's only because it's a program especially *targeted* for persons with AIDS [PWAs].) You don't have to disclose your disability with the public housing agency. If you can't provide an award letter from a public agency certifying that you are disabled (it need not, and shouldn't, give your diagnosis, by the way!) and you must provide one from your doctor, his statement need not disclose your particular diagnosis. Disclosure only invites discrimination. Don't take that chance!

But the middle-aged and older persons who often run the *private*, fixed subsidy elderly and disabled buildings are another matter altogether! They'll want to know what's wrong with you—law or no law! Refusing to answer will, of course, mean no apartment—so standing dramatically on your rights here will be counterproductive. (They're clever enough to cover their tracks so as to avoid successful discrimination charges.) If you mention AIDS, mental health or substance abuse you risk being discriminated against.

Instead, mention *other* conditions you really have and tie them to your disability status. Kaposi's sarcoma (KS), for instance, can be characterized vaguely as a persistent cancer; digestive problems common to PWAs can be described as disabling ulcerative colitis. If you're gay, the vague mention of an ex-spouse—and maybe even children of yours living with that ex—might immunize you from the "suspicion" of being homosexual. Remember, the older, lower middle class managers who generally run these apartment buildings (even those who may be minorities themselves) are highly likely to harbor (and successfully conceal from legal action) prejudices against gays, PWAs, mental health patients and persons in substance recovery.

All housing programs' waiting lists can last years. This is why it is important to give an address *and* telephone number (perhaps one of a trusted, highly stable friend) to be sure that when and if you name *does* get to the top of the waiting list, they can contact you.

There is one other feature of housing agency waiting lists which is important for persons with HIV. Most PHAs don't demand full documentation of one's income *or* disability to be added to the bottom of a waiting list. (The full eligibility work-up—including proof of disability—is only done for those who actually reach the top of the list.) Thus it is possible for someone who is now "only" HIV-positive to add his name to the housing agency's waiting list just in case his disease progresses to full-blown, disabling AIDS by the time he reaches the top—particularly if he anticipates that his finances will be severely limited once work becomes impossible.

SIDEBAR #1

What Documents You Need to Apply for Housing Assistance

Birth certificate
Green card, immigration or citizenship papers if you are foreign-born
Social Security cards for all household members
Marriage, divorce, separation, alimony, adoption, child custody and support papers
Children's and spouse's birth certificates and children's school report cards
Driver's license or other state picture identification for all household members
Award letters and other papers and forms from welfare, Social Security, the VA and other public programs
Auto registration and title
Bank account records for last three months
Job pay stubs for last three months
Documents proving medical expenses you pay (including *non*-prescription over-the-counter health and first aid supplies and patent medicines; transportation to medical care; and co-payments that Medicare, Medicaid or health insurance requires you to pay)
Letter or housing agency form completed by your physician declaring you fully disabled (if you don't have disability award letter from Social Security)
HIV- or AIDS-diagnosis letter from your doctor (only if you're applying to HOPWA)
Papers and forms about any college aid, job training or vocational rehabilitation benefits

Written proof of any other money you receive or things or money you own
Documents showing expenses for personal attendants, special devices, guide dogs, etc.

Sidebar #2

Using Section 8 and HOPWA Certificates and Vouchers To Pay a Mortgage or Home Improvement Loan on Your Own House, Condo or Coop

During 2000, HUD created the Housing Choice Voucher homeownership program by changing the Section 8 and HUD voucher regulations and manuals to allow PHAs that opt to do so with HUD approval to issue housing vouchers and certificates for use to help pay *new* homeowners' (but *not* already-existing) *new* purchase mortgages and even home improvement loans to bring substandard housing up to par. (Old mortgages which predate the client's subsidized housing eligibility do *not qualify, however; moreover,* clients who've owned a home---with or without a mortgage---within three years are excluded..*)* HOPWA regulations, though, must be changed to permit even this limited mortgage-payment program on an ongoing permanent basis. On the other hand, Volume 24, Code *of Federal Regulations*, Section 574.330 already routinely allows local agencies, *at their option*, to pay what are informally called renewable, 21-week "shallow rent subsidies" using HOPWA vouchers and McKinney homelessness funds, but not Section 8 or HUD vouchers, to prevent impending homelessness by paying mortgages, real estate taxes, utilities and insurance of homeowners---but only for *pre-existing mortgages*.

Where local housing agencies take the above-described limited mortgage payment options, waiting lists and priorities are handled just as they are for regular PHA Section 8 and HUD voucher cases in the local area. As with rents, clients pay 30% of their adjusted income toward their shelter costs, with housing program paying the rest up to HUD-approved housing cost levels. For example, someone with a *new* mortgage, taxes, insurance and utilities of, say, $800 monthly might have an adjusted income of $1,000. He or she would then pay $300 toward mortgage, tax, insurance and utility costs, with the voucher then paying the rest. Since these are new or added-on mortgage payment programs, local agencies and housing staff may not yet know about them; if you encounter this situation, insist they do so and get updated rules from HUD.

And low income disabled persons--- who might have trouble qualifying for a mortgage or home improvement loan because of low income, poor credit or no credit---can get government-sponsored, subsidized mortgages and home improvement loans under HUD and other housing and finance agencies' programs designed for just this purpose. Details are available at http://alliance.unh.edu; under the "Housing and Community Development", "Special Financing" and "Home Choice" items at www.fanniemae.com; at www.homeownershipalliance.com; under the "Project Home", "Disabled" and "Veterans" subheadings at www.HUD.gov; under "Section 8 Home Ownership Opportunities" at www.tacinc.org and from the staff who handle the Urban Development Block Grant (UDBG) program at local PHAs and state housing agencies.

Sidebar # 3

Low Income Housing Tax Credit (LIHTC) Buildings and Projects

Private projects which receive the Low Income Housing Tax Credit (LIHTC) from the IRS are required to rent a specified number of their units at specified discounted rents. The IRS and state housing finance agencies monitor their compliance with these rules. For details on the LIHTC program, see the comprehensive but somewhat technical program description at http://www.irs.gov/prod/bus_info/mssp/lihc-1.html#Chap1 (which includes an appendix with citations to the governing federal laws and regulations) and contact the state agency listed at http://www.ncsha.org/ncsha/public/statehfadirectory/INDEX.htm . Some state housing finance agencies also oversee other projects subsidized by additional, separate *state* or *local* tax breaks or funding.

Lists of these subsidized LIHTC buildings are compiled state-by-state at http://lihtc.huduser.org for federally financed projects since 1988 (when the program began) through 1998. (More recent projects and others subsidized by any additional or similar *state or local* tax incentives or funding are also available from the state housing finance agency). In general, LIHTC projects monitored by state housing finance agencies are required to set rents by one of two methods: 1) dedicate 20% of the project's units to tenants with incomes below 50% of the locality's Area Median Income (AMI) and compute their rents at 30% of 60% of that AMI; or 2) dedicate 40% of units to tenants with incomes below 60% of the local AMI and compute their rents at no more than 30% of 60% of that AMI. Both methods in practice result in *maximum allowed* rents under the program of 30% of 60% of the Area Median Income (listed for each state statewide, for metro areas and for non-metro areas) at http://www.huduser.org/datasets/il/fmr02/index.html in a document called "Memorandum on Estimated Family Incomes for FY 2002". (It should be noted that, for an applicant to avail himself of these maximums, his family size requires, and limits LIHTC-subsidized units to, efficiencies for one person families and 1.5 family members per bedroom for larger families. In other words, a one person family doesn't have to be rented a unit larger than an efficiency at the subsidized LIHTC maximum rent, and larger families' LIHTC rents are limited to units with one bedroom for each 1.5 persons. In some cases, landlords might, for one reason or another, voluntarily charge *less* than the maximum allowed LIHTC rent---even for tenants without HUD rental subsidies like vouchers, HOME, Section 8 or HOPWA.)

Eligibility, waiting lists, applications and rentals are handled by each private project, which are supposed to use program guidelines. What the program formulas mean is that, while such projects can and do often offer rental discounts (or at least upper rent limits) to targeted limited-income tenants, they still usually leave tenants paying rents near, only slightly below, or even slightly *above* ordinary private market rents---and *more* than the 30% of their adjusted gross income that they'd pay under HUD programs).

Nevertheless, careful shopping by tenants can sometimes uncover units priced by LIHTC landlords at rents *below* program maximums----and these, of course, would be welcome bargains for limited income tenants. And *if* prospective tenants are lucky enough to *already* have Section 8 certificates or HUD vouchers--- and it should be noted that project owners *are required* to accept Section 8 and other HUD rental subsidies by the “partnership agreements” they sign with authorities to get the tax breaks--- their own rental payments would then be set at only the 30% of their own individual adjusted income, as set by HUD. (This is because Section 8 certificates or HUD vouchers pay the balance of rent between the 30% HUD-set rent figure and the full, higher rent amount allowed by LIHTC rules.) Nevertheless, some LIHTC landlords illegally refuse to accept Section 8 and HUD certificates and vouchers because they dislike housing agency red tape--- sometimes somewhat disingenuously claiming that many low income tenants can’t meet their company’s “renter credit standards” (even though these typically and unfairly count wages but *not* public disability benefits or one’s housing vouchers’ dollar value as income), practices that violate not only LIHTC rules but probably any applicable state and local laws forbidding discrimination against the aged, the disabled or anyone by reason of his source of income.

Yet even where the prospective tenant does *not* yet have (or the LIHTC landlord won’t accept, or can‘t easily be forced to accept) a Section 8 or HUD certificate or voucher, these projects must still charge a rent based on the AMI and FMR limits explained in the paragraphs above. And this amount can *still sometimes amount to **some** rental discount*, **even if** it computes out to *more* than the 30%-of-income figure one would pay through a HUD program. With or without HUD subsidies, LIHTC rents can sometimes be bargains.

Sidebar # 4

State Use of TANF and Welfare Reform Maintenance of Effort Funds for Housing

More and more states and localities have begun to use Temporary Assistance to Needy Families (TANF, formerly the AFDC welfare program for families with children) monies and also welfare reform maintenance of effort funds to subsidize rent, move-in expenses, utility costs and even home purchase costs for needy families (usually, but not always, families formerly on welfare who are leaving the rolls for work or those at risk of homelessness). Details about these programs--- their eligibility rules, target groups and contact information--- in Connecticut, Denver, Kentucky, Los Angeles, Maryland, Michigan, Minnesota, New Jersey, North Carolina, Pennsylvania, San Mateo County (CA), Virginia and other areas is available at <http://www.cbpp.org/12-3-01hous.htm>.

Sidebar # 5: Low Income Home Energy Assistance (LIHEAP) & Weatherization Assistance; Utilities’ and Private Charities’ Heating Cost Aid Programs

The federal Department of Health and Human Services funds state-administered Low Income Home Energy Assistance Programs (LIHEAP), which help low income aged, disabled and families pay for portions of their heating and cooling costs from electric, gas, oil, coal and other sources. The federal Department of Energy funds a Weatherization Assistance program for the same low income target populations; it pays for insulation, caulking, storm windows, etc.

Both programs allow states to set income eligibility levels *up to* 150% of poverty, or 60% of an area’s mean income, whichever is more. (Some states allow less than 150%; a few, using extra state funds, allow higher incomes; and some use 60% of the mean income.) States typically establish 3 different income levels: one for regular seasonal energy assistance (help with bills);

one for cutoff crises and emergency assistance; and one for home weatherization services. States can, and many do, offer LIHEAP and weatherization to renter as well as owner households; to tenant households *even if* their rents include heating and/or cooling; to households who only use cooling, but not heating, energy; and even to households which receive housing subsidies which *include* the cost of heating or cooling. States can---and AR, CT, KY, MO, NC, ND, NE, NV, OK and VT have done so---impose *asset* tests as well; the limits range from $1500 in KY to $10,000 in CT for assets other than one home and one car, which are exempt.

In all states, these programs are funded so poorly that only part of clients' energy bills can be paid; applications are taken in early to mid-fall (September to late October) on a first-come, first-served basis. Some states have a second springtime round of applications for summer cooling assistance; if you need cooling assistance too, ask whether you must apply again in the spring.

States use what are called "community action" agencies---separate from their welfare agencies---to administer and take applications for their LIHEAP and home weatherization programs. Lists of state LIHEAP and weatherization agencies and their addresses, telephone numbers and websites; exact state income eligibility levels for regular LIHEAP, emergency LIHEAP and weatherization; exactly what asset levels are in those states that have them; which states offer LIHEAP to renters as well as homeowners, to renters whose heating/cooling costs are included in the rent and to renters in subsidized housing; and---*most importantly!* ---what *additional* energy assistance or discount programs are offered locally by private charities and the utilities themselves are all listed at www.ncat.org (on the LIHEAP pages). Local community action agencies are listed at http://www.communityactionpartnership.com/about/links/map.asp. Also, see www.nationalfuelfunds.org, www.liheap.org and www.nliec.org, for news on other state, local and utility-run energy assistance for the needy and, especially, *"The Cold Facts"* at www.secondharvest.org or www.opportunitystudies.org.

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