Disallowance of Increase in Annual Income  
(Earned Income Disregard)

In February 2001 HUD finalized regulations that require housing providers in certain HUD programs to disregard some or all of the earned income for tenants with disabilities. The Earned Income Disregard, as it is commonly called, allows qualified individuals and families receiving housing assistance to keep more of their earned income for a period of up to two years following an increase in employment income. The purpose is to assist persons with disabilities in obtaining and retaining employment, as an important step toward economic self-sufficiency.

An Earned Income Disregard Worksheet is included at the end of this packet, and a copy of the Worksheet and Calculator can be found at:


Who qualifies for the earned income disregard?

1. A disabled family receiving assistance through one of the following programs:

- HOPWA (Housing Opportunities for Persons with AIDS) TBRA
- HOME (Housing Opportunities Made Equal)
- SHP (Supportive Housing Program)
- Housing Choice Voucher (Section 8)

The Earned Income Disregard does not apply for purposes of admission to these programs.

AND

2. Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment; OR

3. Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; OR

4. Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.

Definitions
Previously Unemployed: Includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Minimum Wage: The prevailing minimum wage in the state or locality. Go to this web link to verify the minimum wage in your state: [http://www.dol.gov/esa/minwage/americ.htm](http://www.dol.gov/esa/minwage/americ.htm)

Economic Self-Sufficiency Program: Any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment)

**Initial and Phase-In Exclusion Periods**

Initial 12-Month Exclusion: 100% Exclusion of income over the amount of prior income (if any). This cumulative period begins on the date a member who is a person with disabilities of a qualified family is first employed OR the date the family first experiences an increase in annual income attributable to employment. The responsible entity must exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member. If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months.

Second 12-Month Exclusion/Phase-In: 50% Exclusion of income over the amount of income prior to the beginning of the initial exclusion (if any). The second 12-month cumulative period after the date a member who is a person with disabilities of a qualified family is first employed OR the date the family first experiences an increase in annual income attributable to employment. The responsible entity must exclude from annual income of a qualified family fifty percent (50%) of any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member. If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months.

Maximum 48-Month Disallowance: There is a 48-month (four year) lifetime maximum time frame for each qualifying family member to utilize the Earned Income Disregard. The 48-month period is *consecutive* and begins at the initial exclusion, either the date that a qualified family member is first employed or the date when the family first experienced an increase in annual income. The exclusion ends when the qualifying family member uses both 12-month exclusions (initial 12-month 100% and second 12-month 50%) or until the 48-month lifetime maximum is reached, whichever comes first. No disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

**Documentation and Tracking**
Documentation should be maintained and may include the following:

1. Date the increase in earned income was reported by the family.
2. Name of the family member whose earned income increased.
3. Reason (new employment, participation in job training program, within six months after receiving TANF) for increase in earned income.
4. Verification of income.
5. Amount of the increase in income (amount to be excluded).
6. Date the increase in income is first excluded from annual income.
7. Date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if applicable).
8. Date the family member received a total of 12 months of the initial exclusion.
9. Date the second 12-month (phase-in) exclusion period began.
10. Date(s) earned income ended and resumed during the second cumulative 12-month period of exclusion (if applicable).
11. Date the family member received a total of 12 months of phase-in exclusion.
12. Ending date of the maximum 48-month disallowance period OR full utilization of both 12-month periods, whichever comes first. If all months in both the initial and phase-in periods occur consecutively, this date may be as soon as 24 months from the date the exclusion was first applied.

**Question & Answer**

**Obtained from the National Housing Law Project @ www.nhlp.org**

**Q1:** Does the new disregard apply to a tenant who has income from both TANF and employment, beginning prior to October 1, 2002, but then experiences an increase in earnings from work after October 1, 2002?

**A1:** The new income disregard applies; tenants whose earnings increase while on TANF are eligible for a disregard of their increased income due to earnings.

Example:

A tenant has a 20-hour/week job for which she earns $550 per month (she did not receive the 18-month disregard) and receives $200/month in TANF benefits. Beginning November 1, 2002 the employer increases her hours to 35 per week with a slight pay increase for a total of $1000 per month and she stops receiving the TANF benefits. The new disregard applies to her increase in income due to earnings. Under the regulations, $250/month of the increase in earnings is excluded from her annual income to determine her rent, because that is her increase in income (as opposed to the increase in earnings). The annual income used to determine her rent is 12 times the previous $750/month of income. Her rent would remain what it was in October 2002 (assuming no other changes in income or family composition), because the October and prior rent was based on the previous gross income of $750/month.

**Q2:** At a family’s last reexamination effective 1/1/2001, the family is receiving welfare assistance. When the family is reexamined for 1/1/2002, a member of the family has earnings after being previously unemployed for twelve months. This change occurred on 6/15/2001, but the family was not required to report it. Now it is being reported for the reexamination effective 1/1/2002. How is the earned income exclusion benefit processed?
A2: By not reporting the increase, the family has received the benefit for the 6 months prior to the reexamination. The family is entitled to 100 percent of the disregard of any incremental increase for the remaining six months. At the end of that six months, the family is then entitled to the 12 month 50% disregard of the incremental increase.

Q3: Is there a time limit on how long a resident can be unemployed to be eligible for the earned income exclusion?

A3: There is no maximum time limit on how long a resident can be unemployed. However, he/she must have been unemployed for at least the last 12 months, as unemployment is defined in the regulations.

Q4: Does the $500 minimum dollar requirement apply only when a family is seeking to qualify for the disregard on the basis of receipt of one-time TANF benefits or ancillary benefits such as transportation assistance, (and not to the receipt of monthly TANF income maintenance benefits?)

A4: Yes, the $500 minimum dollar requirement applies only to one-time benefits, wage subsidies, and transportation. A person receiving regular monthly income benefits in the previous six months is eligible for the disallowance even if the amount received is less than $500.

Q5: An individual who was never previously employed obtains his or her first job, but is still receiving a regular monthly income benefit from welfare. Is this individual entitled to the income disregard?

A5: Yes, the individual is eligible for the earned income disregard based on the following criteria: “Whose 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. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.”

Q6: An individual is working but also receiving TANF benefits. If the individual’s income increases, and as a result, the individual loses the TANF benefits, does the individual qualify for the income disallowance?

A6: Yes, the individual is eligible for the income disregard based on an increase in income as a result of new employment within six months of receiving TANF.

Q7: What rent policy applies if a tenant’s income increases under circumstances that would qualify for the earned income disregard, but fails to report the increased income?

A7: Even if the tenant fails to report changes in income, the tenant still receives the benefit of the full earned income disregard as illustrated in the example below.

Example:

A tenant begins work in October 2001 while receiving TANF benefits (which were later reduced). If program policies require reporting of income changes within 10 days and interim rent changes. The tenant does not report her new job until her regular reexamination in February 2002. If timely reporting of the increased income would have led to the disregard being applied as of December 2001,
the tenant should be in the same position as if the income had been reported timely. The 12 months of 100% disregard should count from December 2001, extending through November 2002. Beginning in December 2002, the rent should increase by 50% of what the increase would otherwise have been.

Q8: Does a family receive the benefit of the income disregard if the family experiences an increase in earnings within six months of receiving a non-cash TANF benefit, such as a $600 payment to an auto shop for repairs to the tenant’s car so she could start a new job?

A8: Yes, receipt of at least $500 in TANF benefits is sufficient to trigger the disregard. To verify which benefits are funded under of the state’s TANF program, contact your state or local welfare office.

Q9: In determining a family’s eligibility for the income disregard, must the member of a household who gets a job or increases earnings be the same member of the household who received TANF benefits?

A9: No. If any member of the family in the household receives TANF and another member of the family in the household obtains employment, the amount earned by the new working member would be excluded under the disregard.

Q10: Is a tenant eligible for the income disregard if she obtains a job 2 months after completion of the coursework portion of a vocational school program while she is receiving job search and counseling assistance from the program?

A10: Yes. Because she is still receiving services from the training program, she has started a job during the program and is entitled to the disregard.

Q11: If a tenant who qualifies for the disregard gets a job after paying a zero rent, does her rent remain at zero for another 12 months (and then increase to half of what the rent obligation would have been if all her earnings were considered?)

A11: Yes. For example, if a tenant had no income for 12 months prior to getting a job she would meet the eligibility for the disregard as “previously unemployed.” Her rent would remain zero for 12 months after her job began. In months 13 - 24 after her employment began, her rent would be based on half her earnings.

Q12: Does the earned income disregard go into effect when the tenant begins her new job or increases her earnings; when the tenant reports her increased income; or when the rent increase would otherwise have gone into effect?

A12: The earnings disregard is effective when, theoretically, the rent increase would otherwise have gone into effect after an increase in annual income, regardless of whether the program requires interim reporting, or makes interim rent adjustments. “When the rent increase would otherwise have gone into effect” refers solely to the administrative time it takes to implement a rent increase after an increase in annual income.

It is important to note that a family member may never receive more than a 12-month 100% disregard of incremental increases in earned income, and the subsequent 12-month 50% disregard of incremental increases in earned income, regardless of PHA policy on interim reporting or interim rent adjustments.

Example:
A tenant who had previously been unemployed for 12 months began a job on November 1, 1999 and reported the earnings before the end of the month. Under the program’s regular procedures, independent of the new disregard, a rent increase would have been processed beginning January 1, 2000. This tenant qualifies for the new disregard, which should apply as of January 1, 2000. On January 1, 2001, the rent should be increased by 50% of what the increase would have been absent the disregard.

**Q13:** How many times in a 48-month period can a family qualify for the earned income exclusion?

**A13:** A family member can only receive a total of 12 months for 100% of the incremental increase disregard, and 12 months of the 50% disregard in his or her lifetime. The disregard only applies for a maximum of 4 years from the time it is first applied.

Example:

A tenant who qualifies for the mandatory disregard based on previous unemployment works for 20 months and then is laid off. She received 12 months of the full disregard and 8 months of the 50% disregard. The resident is called back to work in the 30th month following initial employment. The resident is still entitled to the remaining four months of the 50% disregard.

**Q14:** A tenant received TANF benefits of $500 per month from March 1999 - August 1999, and at this point the tenant reached the state’s TANF time limit and benefits were terminated. The tenant got a job making $600/month for September through November 1999. At the end of November, the person quit that job and during the week before Christmas started a new job paying $1200/month. Is the tenant eligible for the disregard when she reports her new earnings in January 2000?

**A14:** Yes. The tenant qualifies for the income disregard because the individual received TANF benefits within the 6-month period prior to January 2000. In addition, in the 12 months prior to beginning her new job, she earned only $1,800, which is less than 500 hours at the federal minimum wage (currently $2,575) so she is considered to be “previously unemployed.”

**Q15:** If a tenant is eligible for the earned income disregard, can the disregarded amounts be used in determining the cap for the childcare expense deduction?

**A15:** In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income; therefore, the disregarded amounts cannot be used in determining the cap for the childcare expense deduction. (See definition of childcare expenses at 24 CFR 5.603.)

Example:

A resident is receiving the benefit of the new earned income disregard. Her salary is $9,000/year, however, only $3,000 of this amount is being included in annual income. The remaining $6,000 is being disregarded. Childcare expenses for her four-year-old daughter total $3,640/year. The resident’s childcare deduction is capped at $3,000, because this is the amount that is included in annual income.

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Sec. 5.617 Self-sufficiency incentives for persons with disabilities--Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.

(c) Disallowance of increase in annual income--(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on
the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).