

IN THE BOARD OF COMMISSIONERS OF THE
HOMES FOR GOOD HOUSING AGENCY, OF LANE COUNTY OREGON

ORDER 25-29-01-02H

In the Matter of Updating the Housing Choice Voucher Administrative Plan and Admissions & Continued Occupancy (ACOP), Distributions from Trusts

WHEREAS, Homes for Good is required by HUD under the Housing Opportunity Through Modernization Act (HOMTA) to implement income exclusions noted in 24 CFR 5,609(b)

WHEREAS, PIH Notice 2024-38 identifies which aspects of HOTMA PHAs can implement as of December 17, 2024.

WHEREAS, Homes for Good is implementing the required HOTMA changes for certain distributions of irrevocable trusts or revocable trusts outside the control of the family or household (24 CFR 5.609(b)(2)).

NOW IT IS THEREFORE ORDERED THAT:

The Housing Choice Voucher Administrative Plan for Fiscal Year 2025 and the Admissions and Continued Occupancy Plan for Fiscal Year 2025 shall be revised as follows:

The Pre and Post HOTMA Regulatory Citation Matrix will be updated by completing the "Date Implemented" field for "Distributions from Trusts" as of the board order approval date. This update will trigger the following regulatory implementation:

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is

not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

DATED this 29th day of January, 2025

Larissa Ennis

Larissa Ennis (Jan 30, 2025 08:26 PST)

Chair, Homes for Good Board of Commissioners



Secretary, Homes for Good Board of Commissioners