SUMMARY OF KEY FEATUES OF PROPOSED CHANGES
to the
FAMILY SELF-SUFFICIENCEY RULE

National Low Income Housing Coalition
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HUD published proposed changes to the Family Self-Sufficiency (FSS) regulations in the *Federal Register* on September 21. The proposed changes primarily implement statutory changes required by "The Economic Growth, Regulatory Relief, and Consumer Protection Act" ("Economic Growth Act") signed into law on May 24, 2018. HUD also includes other proposed changes it claims will reduce burden and streamline the program. Comments are due November 20.

Background

The FSS program helps Public Housing, Housing Choice Voucher (HCV), and Multifamily Project-Based Rental Assistance households increase their earnings and build assets that may be used for any purpose such as buying a home or furthering education. Participating PHAs or Multifamily owners use FSS program coordinators to help create household-specific plans that form the basis of a five-year contract agreed to by the household. Program coordinators connect households to supportive services and provide ongoing case management. As a participating household's income increases, the difference between a household's original rent and the increased rent that would result due to a household's increased income is credited to an interest-bearing escrow account on behalf of the household. FSS is voluntary and allows participants up to five years to achieve their goals and "graduate" from the program.

FSS has existed and been funded for the Public Housing and HCV programs since the 1990 Cranston-Gonzalez National Affordable Housing Act. Congress appropriated of $80 million for FSS for FY20. The FY15 Appropriations Act authorized a demonstration program for HUD's Multifamily program, and the Economic Growth Act enabled private owners of HUD-assisted Multifamily properties to establish their own FSS program or coordinate with another owner or PHA to offer FSS to their residents. Congress has not appropriated FSS funds for the Multifamily program.

Selected Proposed Changes, Public Housing and Housing Choice Voucher Programs

<u>Minimum Program Size</u> (Section 984.105)

The proposed rule revises the provisions regarding determining minimum program size (i.e., the minimum number of families that a PHA must serve in its FSS program), clarifying that the relevant figure is the total number of Public Housing units plus the total number of HCV and Project-Based Vouchers (PBVs).

The proposed rule allows for a reduction of the minimum program size by one slot for each family that graduates from the FSS program from either Public Housing, HCV, or PBV.

The proposed rule conforms to the list of local circumstances that make it unfeasible for a PHA to operate an FSS program and for which the PHA may get HUD approval for an exception to program operation or an exception to operate a smaller program. HUD proposes to change the duration of any HUD-approved exception from three years to five years, and would allow a PHA to seek approval to continue the exception. Also, if circumstances change within those five years, a PHA would not be required to carry through the exception for the full five years.

Cooperative Agreements (Section 984.106)

The Economic Growth Act allows a PHA to enter into a Cooperative Agreement with one or more owners of Multifamily properties to voluntarily make an FSS program available to the owner's assisted tenants. The PHA would manage the service coordination for families covered under the Cooperative Agreement. The new section of the regulations would require:

(1) FSS program waiting lists to be open to all eligible families in the Multifamily properties covered by the Cooperative Agreement;

(2) Escrow amounts to be managed by each owner, including calculating and tracking;

(3) An owner's assisted families covered by the Cooperative Agreement to be allowed to be part of the calculation of the FSS award to the PHA; and,

(4) FSS funds awarded to the PHA to be used by the PHA to serve an owner's assisted families covered by the Cooperative Agreement.

Program Coordinating Committee PCC (Section 984.202)

PHAs are assisted by Program Coordinating Committees (PCCs) that usually consists of representatives of local government, employment and job training agencies, welfare agencies, nonprofit providers, local businesses, and assisted families. HUD proposes to revise the current rule's provisions concerning required PCC membership to require an FSS Coordinator or Coordinators and at least one resident from each HUD-assisted program served by FSS to be a member of the PCC. PHAs would no longer be required to formally solicit such participants from the resident groups identified in the regulation. Rather, PHAs may seek such group's assistance, if needed, to identify such participants.

Contract of Participation, CoP (Section 984.303)

The contract household's voluntarily sign in order to participate in FSS are formally called Contracts of Participation (CoPs). The current rule requires a household to be independent from welfare assistance for 12 months before the CoP expires. HUD proposes to change this to require a household to be independent from welfare at the time of graduation from FSS, but not independent for a specified time period before graduating from the FSS program. The intent is to ensure that a household can successfully graduate and access its escrow funds if they do not meet the 12-month time period, as long as the family has worked successfully toward all of its other goals.

HUD also proposes to require the CoP to represent an individualized training and service plan, prohibiting PHAs and owners from requiring a certain number of hours, rate of pay, or other mandatory requirements that apply to all FSS participants across the board.

As required by the Economic Growth Act, HUD is deleting the rule that currently allows a PHA to terminate or withhold a family's voucher assistance for failing to comply with its CoP. The intent of the revision is to provide an incentive for more households to participate in FSS.

HUD proposes to expand the definition of "good cause" for allowing a contract extension to include active pursuit of a goal that will further self-sufficiency, such as a college degree or credit repair program.

HUD proposes to remove the current rule's provision that automatically completes the FSS contract when 30% of the family's adjusted monthly income equals or exceeds the Fair Market Rent (FMR). Removal would allow FSS families to use the FSS program to its full potential.

<u>Amount of Rent Paid by FSS Household and Increases in Household Income</u> (Section 984.304)

Prior to the Economic Growth Act, an FSS family's increased income could not be considered as income for eligibility for other benefits or the amount of benefits to the family under any HUD program, unless the family income was greater than 80% of the area median income (AMI). The Economic Growth Act removed the last provision and allows an FSS family's increased income to be excluded as income regardless of whether the family income exceeds 80% of AMI.

<u>FSS Account</u> (Section 984.305)

The current FSS regulations require escrow funds to be forfeited when the FSS contract is nullified in cases where supportive services integral to the FSS household are unavailable to them. HUD proposes to allow escrow funds to be disbursed to the FSS household in the case of a nullified contract because the circumstances are not the household's fault.

<u>HCV Portability Requirements</u> (Section 984.306)

The current FSS regulation allows a receiving PHA (the PHA where a voucher household wants to move to – to "port" their voucher to) to enroll a porting FSS family into its FSS program. The current rule also allows the initial PHA (the PHA where a voucher household currently lives) to determine that an FSS family that ports away from it to continue participating in the initial PHA's FSS program, if the FSS family demonstrates that it will be able to fulfill its responsibilities under the FSS contract.

The proposed rule revises the current framework, requiring the receiving PHA to enroll into its FSS program FSS families that port into it, unless the receiving PHA and the initial PHA agree to a family's continued participation in the initial PHA's FSS program. This change is intended to facilitate the continuity of services and case management for the family, ease the family's move, and prevent the potential loss of escrow funds.

Multifamily Changes

The proposed rule would add a new 24 CFR part 887 to address the FSS program for owners of HUD-assisted Multifamily housing. It has eight sections that mirror the FSS program rule at 24 CFR part 984. A few of the key features are listed here.

Basic Requirements for the FSS Program (Section 887.105)

HUD proposes to make the FSS program requirements for Multifamily housing consistent with PHA requirements. These requirements will apply to both existing and new FSS programs.

Tenant participation in an FSS program is voluntary, and an owner must not delay or terminate assistance for a family that elects not to participate in an FSS program.

Owners are allowed to: make available and use onsite facilities; employ appropriate staff, including a program coordinator to administer its FSS program; and contract with an appropriate organization to establish and administer parts of the FSS program.

Owners must consult a Program Coordinating Committee (PCC) in creating a FSS Action Plan, but they are not required to create a PCC.

Cooperative Agreements (Section 887.107)

Owners may enter into Cooperative Agreements with a PHA or other owner to offer an FSS program to their tenants. If an owner enters into a Cooperative Agreement with another owner, the FSS program waiting lists must be open to all eligible families in the properties covered by the Cooperative Agreement, and the escrow amounts must be managed by each owner, including calculating and tracking.

Housing Assistance and Increases in Family Income (Section 887.109)

When an FSS family's income increases, the increase may not be considered as income for eligibility for other benefits or the amount of benefits to the family under any other program administered by HUD. Money that goes into escrow is offset by additional housing assistance payment (HAP) to the owner from HUD as a positive adjustment to the monthly voucher.

The proposed rule is at: https://bit.ly/2FZ3oK4

An easier to read advance version of the proposed rule is at: https://bit.ly/2RNUnGC

More information about FSS is on page 7-67 of NLIHC's *2020 Advocates' Guide*.