LeadingAge®

Regulatory Round Up

HUD Housing Providers:

A Summary of Major Regulatory, Online Systems, and Payment Issues

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Introduction

Regulations and Notices that have been recently published (or are expected to be proposed or advanced in the near future), along with ever-changing electronic reporting platforms or online filing requirement (i.e., Grant Solutions, e-CNA submissions, TRACS and REAC systems changes, etc), and projected changes in both the process and points of contact for third-party oversight and subsidy payments (currently state-based PBCAs for Section 8, HUD field offices for PRAC, and potentially bifurcated roles and responsibilities with a new contract oversight procurement on the horizon) impact the manner and environment in which LeadingAge's affordable housing provider members do their work.

To help members stay informed about these significant changes, we have developed this HUD Housing Issues Regulatory Round Up to summarize the major regulatory, notice/guidance, systems and payment issues developments. We will update this resource on a regular basis, as initiatives advance and new issues surface.

For each item covered, you will find:

- A brief synopsis of the initiative.
- A check-box to show what provider type(s) the initiative impacts. For example, if you saw the following, you would know the initiative impacts only project-based Section 8, but not 202/PRAC, Low Income Housing Tax Credit (tax credit) or RAD programs: ☒ Section 8   ☐ 202/PRAC ☐ Tax Credit Demonstration   ☐ Rental Assistance
- A graphic to show if the initiative primarily impacts regulatory compliance, systems Issues or payment (where an initiative has more than one impact, we flag it). Here are the symbols we use:
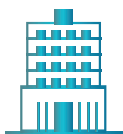
Regulatory   *Systems*   *Payment*

- Easy access to more detailed information about the specific requirements.
- A timeline to help you plan strategically, prepare thoughtfully and be positioned for success.

As always, the LeadingAge team is here to help. Please reach out to the following staff if you have questions or need assistance with the information or initiatives contained in this document:

- *Colleen Bloom, Director of Housing Operations* cbloom@LeadingAge.org or (202) 508-9483
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Key Dates
At-A-Glance

2017 January – June

- Presidential directive issued to all Federal Agencies, including HUD, to form a regulatory reform task force, solicit public input, and make recommendations (date undefined) for elimination or streamlining of regulations under a 2 for 1 proposal.
- HUD launches a new Grants Management Module (GMM) in GrantSolutions and requires all Service Coordinator grant users to create accounts and use this online portal for all grant renewal and reporting submissions.
- HUD issues new Section 8 renewal guidebook and consolidates updated forms.

2017 July–December

- GrantSolutions system design limitations and lack of clear/consistent communications pose significant problems for many providers, and the HUD grant specialists tasked with helping users interact via this online system. Funding obligation delays prevent payment for many successful system users.
- HUD initiates "final" testing of TRACS 202.E environment for software developers with plans to launch in October (later delayed).
- HUD instructs owner/agents to use new Comprehensive Needs Assessment e-tool for all FHA insured transactions (PRAC requirement for use not effective until Feb 2018).
- HUD issues Request for Information on new Contract Administration services procurement (formerly known as PBCA).

2018

- HUD formally suspends implementation of new TRACS 202.E; announces plans to streamline all rental assistance programs to (potentially?) a single source online systems platform (yet to be developed).
- HUD conducts CNA e-tool training for use by PRAC providers on February 8.
- Service Coordinator payments not enable for CY18 as of February 20 (potentially due to continued Congressional delays in finalizing HUD's FY18 budget). HUD threatens lock-out for CY18 funding for any projects where owners fail to respond to (then) February submission deadline.

HUD Regulatory Reform (2:1)

☒ **Section 8**
☒ **Tax Credit**
☒ **202/PRAC**
☒ **Rental Assistance Demonstration**

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Summary

In February 2017, President Trump directed all regulatory agencies to establish a Regulatory Reform Task Force, to evaluate existing regulations, solicit public input, and make recommendations to the agency head regarding their repeal, replacement, or modification. This was a concrete step taken to implement the January 2017 Executive Order requiring all agencies to reduce regulatory burden by "offsetting"—meaning that "for every one new regulation issued, at least two prior regulations [should] be identified for elimination." In February and again in March 2017, LeadingAge submitted a series of recommended reforms, some with financial, others with administrative impacts. To date, no reports from the internal HUD task force have been released.

Sources of Additional Information

A high-level summary of the Executive Orders and LeadingAge's recommendations

LeadingAge's full recommendation letter, with detailed explanations

Collected submissions of 299 other organizations

Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs

Presidential Executive Order on Enforcing the Regulatory Reform Agenda

HUD's announcement of the formation of a Regulatory Reform Task Force

Important Dates and Deadlines

2017

January/February 2017: Orders issued to Address Regulatory Reforms and form Task Force within 90 days (and periodically thereafter) Agencies to report

May 15, 2017: HUD Announced formation of Regulatory Advisory Task Force

Rent Reform– HOTMA, Others

☒ **Section 8**
☒ **Tax Credit**
☒ **202/PRAC**
☒ **Rental Assistance Demonstration**

Summary

The Housing Opportunity Through Modernization Act (HOTMA), signed into law July 29, 2016 under President Obama, authorizes owners to voluntarily adopt caps on assets, lays the groundwork for 3-year certifications for persons with 90% of their income coming from fixed income sources, and other rental assistance reforms. Public rulemaking processes are required before implementing these provisions, and have yet to be formally begun and will ultimately make substantial revisions to regulations at 24 CFR Subtitle A and Chapters II, IV, V, VIII, IX, and XX. **While rulemaking has begun for implementation of HOTMA for public housing and voucher programs, it has yet to begin for the HUD multifamily housing side.**

In 2018, early drafts of legislative changes were uncovered that could substantially impact rent reforms. LeadingAge is working closely with coalition groups to monitor and advocate against initially suggested changes which would raise rents from 30% of adjusted income to 35% of gross income for non-elderly, non-disabled persons; and raise rents for non-current seniors/disabled from 30% of adjusted income to 30% of gross income, minus all allowances and deductions.

Sources of Additional Information

LeadingAge's preliminary analysis of the changes that will most impact senior housing providers

Clarification that asset caps are not mandatory, but optional on the part of owners

Side-by-side comparison of current and new law (as yet to be implemented)

Initial implementation guidance from HUD

Important Dates and Deadlines

2016

July 29, 2016: HOTMA signed into law.

October 24, 2016: HUD publishes initial implementation guidance

Service Coordinator Reporting and Payment Process Issue in GrantSolutions

☒ **Section 8**
☒ **Tax Credit**
☐ **202/PRAC**
☐ **Rental Assistance Demonstration**

Summary

In 2016, HUD moved all Service Coordinator grant programs to funding on the calendar year (Jan 1 – Dec 31). In 2017, all grantees were required to set up accounts for their grants in a new online systems portal/platform (known as GrantSolutions) and to process grant extensions and submit reports through this online system. At the same time, HUD changed the policies concerning when and what forms had to be submitted. Unfortunately, the transition did not go smoothly, and many grants were not successfully entered into the system during the initial windows when the portal was opened. This resulted in significant delays at HUD in issuing even preliminary funding for all grants in 2017. HUD also began to check for DUNS number authentication.

As fiscal year 2017 ended, funding to several sites was still held up due to administrative and systems access issues. In January 2018, some grantees still report having issues with funding and systems access for 2017 and/or for 2018. Additionally, due to continued Congressional delays in finalizing HUD's FY18 budget, HUD fails to initiate/renew Service Coordinator contracts in Grant Solutions. HUD also threatens lock-out for any CY18 funding if owners fail to respond to subsequent submission deadline.

Additionally, due to repeated CRs and delays finalizing the FY18 HUD appropriation, none of the Calendar Year (CY) 2018 grants have been paid as of February 16, 2018.

Sources of Additional Information

Service Coordinator Program Guidance, including all relevant statutes, regulations and handbooks

Grants Management Module (GMM) grant extension submission requirements

Tip sheet on how to set up an account in GrantSolutions

Changes to SC reporting requirements and time frames

General description of the service coordinator program and expected roles of service coordinators

Notice H 2011-01 for the first requirements to register under the Dun and Bradstreet Universal Numbering System

Requirements for use the Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003, (SAM)

Annual DUNS number certification online requirements through System for Award Management (SAM)

Important Dates and Deadlines

January 2017:

HUD requires all grantees to set up online accounts

February 2018:

Some 2017 payments still not out; and some 2018 extensions impossible to enter.

Section 8bb — Preserving Section 8 Budget Authority

☒ **Section 8**
☒ **Tax Credit**
☐ **202/PRAC**
☐ **Rental Assistance Demonstration**

Summary

Section 8(bb) provides the Department with a tool for preserving budget authority for project-based rental assistance (PBRA) under Section 8. This longstanding statutory authority (and only current mechanism for transferring Section 8 rental assistance subsidies from one property to another) only truly began to be used following Hurricane Katrina, and has since become a recognized (though little-used) tool for preservation of rental assistance subsidies that would otherwise be lost when owners opt out. The first notice was published in 2015. Later, clarifications were issued. Finally, in January 2018, a collection point was established for owners wishing to be considered as recipients for any budget authority that might come available.

Sources of Additional Information

Read HUD Notice H 2015-03 Transferring Budget Authority of a Project-Based Section 8 Housing Assistance Payments Contract under Section 8(bb)(1) of the United States Housing Act of 1937

Find out how to add your name to the list

Learn more about the authority to receive transferred subsidy

Read about HUD's updated FAQ on eligibility

Register for or find a list of potential recipients of Section 8 budget authority

Important Dates and Deadlines

2015

April 3, 2015: HUD Issues Notice Implementing Section 8bb.

2018

January 2018: HUD creates new webpage resource to facilitate linkages.