

Managing Multiple Subsidiaries: Student Rules, Verification and Communication

R Home Property Management, LLC

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R Home Property Management

- Originally Shelter Properties, but in August 2017 became an affiliate of Enterprise Homes, Inc., an affiliate of Enterprise Community Investment.
- Portfolio 8/1/17: 45 properties with 4,442 units:
 - 4 Section 8 PBRA properties, with 569 units;
 - 24 HOME regulated properties layered with LIHTC with 611 HOME units; and
 - Properties included Section 811 RAC, CDBG, tax exempt financing, state loans, TCAP, and project-based voucher assistance.
- Portfolio 1/16/19: 78 properties with 7,843 units, including:
 - 14 Section 8 PBRA (including 3 RAD's, 3 LIHPRHA/§236) with 1,596 units;
 - 40 HOME regulated with 1,289 units; but
 - No USDA/RD or conventional communities.

The Student Rule Trap



Not so
fast.

- When complying with multiple programs, apply the most restrictive rule. . . usually.
- Sometimes, rules don't conflict – they're different, or don't address the same issue at all.
- HUD's student rules for HOME and Section 8 Project-based Rental Assistance target students differently from LIHTC.

Student Rule Summary

LIHTC

- Applies only if ALL household members are students.
- Full time at primary, secondary and post-secondary.
- Any age.
- “Student” defined in tax law.
 - 5 month trap [(IRC §170(b)(1)(A)(ii)].
- 5 exceptions.
- Ineligibility requires move-out.

HUD (HOME and Section 8*)

- Full- or part-time.
- Institutions of higher learning (i.e. post secondary) and not living with income-eligible parent(s).
- Aged 18-23.
- Applies at household level if any member is a HUD-defined student.
- “Student” is defined by HUD/DOE reg.
- Applies only if currently enrolled.
- 7 exceptions.
- Ineligible member affects entire household, but may be removed.

**Does not apply to Section 9, Public Housing.*

The 5 Month Trap – from a July, 2014 application:

the degree of
Bachelor of Science in Agricultural Science
Animal Science
with all the rights, honors and privileges thereto appertaining.
Witness the Seal of the University and the signatures
of its duly authorized officers hereto affixed.
Given at Tallahassee, Florida, this second day of May in the year
of our Lord two thousand fourteen.

Screening Students at Properties Combining LIHTC and HUD Assistance: MI's or AR's

- LIHTC and HOME –
 1. Screen by LIHTC rules first, and;
 - If qualified, screen by HUD rules; or
 - If ineligible per LIHTC, terminate per process and skip HUD screen.
 2. Conduct HUD screen; and
 - If eligible, proceed with process; or
 - If ineligible under HUD rules, see next slide.
- LIHTC and Section 8 PBRA –
 1. Conduct student screen for both LIHTC and HUD.
 - MI's ineligible for both programs, deny application, etc.
 - If MI eligible per HUD screen but not LIHTC, consult supervisor, advise Compliance and await direction.
 2. If LIHTC-eligible but not HUD, see next slide.

Dealing with HUD-Ineligible Students

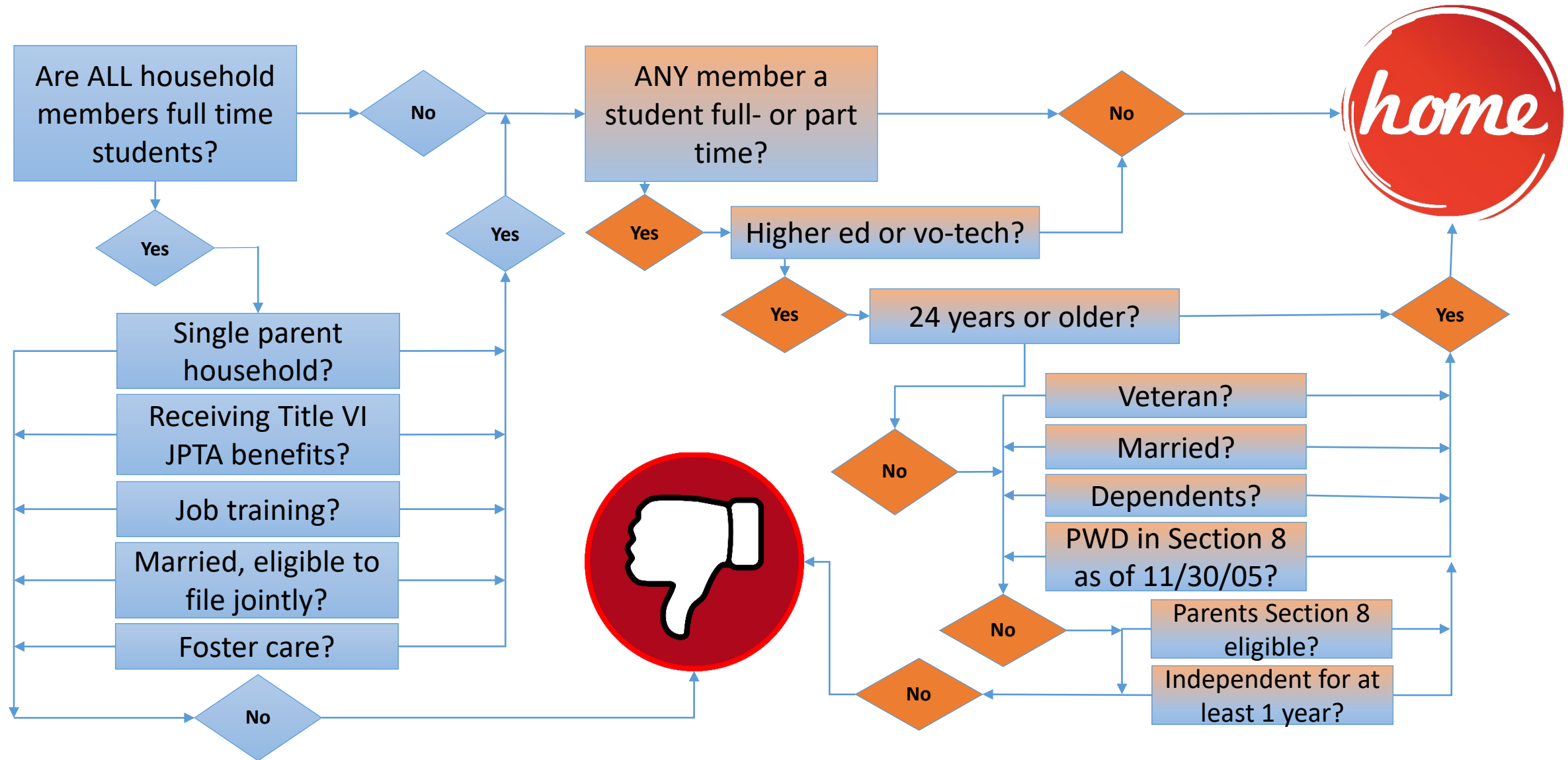
HOME

- At MI, deny assistance to the entire household.
- Household must be allowed to separate itself from the ineligible member in order to qualify.
- At AR, do not evict but treat unit as “over-income” and fill the next available unit with a HOME-qualified household.
 - If also not LIHTC-qualified, contact Compliance and terminate tenancy.

Section 8 PBRA

- At MI, deny assistance to the entire household.
- Household must be allowed to separate itself from the ineligible member in order to qualify.
- At AR, terminate assistance but not tenancy.
 - If also not LIHTC-qualified, DO NOT take action until RM/Compliance consulted.

LIHTC and HUD Student Rule Screen



Helpful Definitions for Student Screening

- Department of Education definition of independent student:
An independent student is one of the following: at least 24 years old, married, a graduate or professional student, a veteran, a member of the armed forces, an orphan, a ward of the court, or someone with legal dependents other than a spouse, an emancipated minor or someone who is homeless or at risk of becoming homeless.
- Department of Education definition of “Veteran:”
A person who served in the active military (incl. Coast Guard), naval, or air service, and who was discharged or released therefrom under conditions other than “dishonorable.”
- ***Above applies only to the HUD rule. REMEMBER, other than for persons coming out of foster care, the IRS doesn’t accept “independence” as an exception.***

HUD's Regulation

§ 5.612 Restrictions on assistance to students enrolled in an institution of higher education. No assistance shall be provided under section 8 of the 1937 Act to any individual who:

- (a) Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 ([20 U.S.C. 1002](#));
- (b) Is under 24 years of age;
- (c) Is not a veteran of the United States military;
- (d) Is unmarried;
- (e) Does not have a dependent child;
- (f) Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005; and
- (g) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

[[70 FR 77743](#), Dec. 30, 2005, as amended at [73 FR 49332](#), Aug. 21, 2008]

Defining Independence under HUD/ED Rules

In the [9/21/16 Federal Register](#), HUD conformed its independent student guidance with the Education Department's definitions:

1. The student is an orphan or ward of the court immediately before his/her 18th birthday;
2. Immediately prior to his/her 18th birthday, was a legally emancipated minor;
3. Verified during the school year in which an application is submitted as an unaccompanied or homeless youth, or unaccompanied, at risk of homelessness, and self-supporting, by –
 - I. A local educational agency's homeless liaison;
 - II. The director or designee of a program funded under the Runaway and Homeless Youth Act;
 - III. The director or designee of a program funded by the Emergency Shelter Grant; or
 - IV. A financial aid administrator for the school attended by the individual; or
 - V. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

Verification of Student Independence: HUD

If a student is under 24 years old and doesn't meet the conformed ED definition, verify the student's independence by completing all of the following steps:

1. Review and verify previous address information to establish student as a separate household;
 2. Review prior year tax return to verify financial independence; and
 3. Obtain signed affidavit of non-support from the parent(s).
- If any one of the above cannot be met, the parent's eligibility for Section 8 assistance must be verified.
 - As always, document verification efforts.

General Verification Challenges

- Database driven verifications:
 - HUD EIV restrictions;
 - The Work Number – R Home defaults to paystubs.
- Economic changes – up to 25% of US workforce self-employed:
 - “Gig” economy;
 - Underground or “informal” economy – “off the books” income;
 - Utility assistance;
 - “Zero” income – HUD vs. LIHTC treatment.
- Child support:
 - HUD – actual receipts;
 - LIHTC – awarded even if not collected.
- Disposal of assets – confusion over gifts, favors, charitable donations.
- Trusts – both from the donor and beneficiary standpoint.
- HOME Two-Month Standard vs. LIHTC.

Training and Communication (1)

- Rapid portfolio growth over past year and a half:
 - Communities – 73%;
 - Units – 77%; and
 - Rental Office Associates – similar with 30% turnover during transition.
- Communications with property associates, other colleagues;
 - Reports – late recertifications, utility allowances, rent adjustments, monthly HAP voucher requests;
 - Properties – file audits and reviews in real time of move-in and annual recertification files.
- Communications with multiple partners:
 - HUD;
 - Contract administrators;
 - REAC; and
 - Web-based systems (WASS).
 - Housing Credit Agencies;
 - Local HOME Participating Jurisdictions;
 - Public Housing Authorities;
 - Local HFA's or other regulators; and
 - Not to mention investors/syndicators.
- Differing and constantly changing report formats, software, etc.

Training and Communication (2)

- Internal Control Sheets
- Pre-audit
- Instruction led by Compliance associates:
 - Narrower focus on specific concerns; including
 - One-on-one orientation;
 - Common verification errors;
 - Students and other conflicting rules;
 - R Home policies and processes;
 - HUD issues including MOR prep, EIV reports, Special Claims.
- External training resources including NCHM certifications, HCCP, Ross Business Development.