

HUD housing assistance for families with non-citizen members

Although undocumented immigrants are not eligible for HUD housing assistance, if at least one member of a household has an eligible immigration status, the household can get housing assistance on a prorated basis.

Authority: Section 214 of the Housing and Community Development Act of 1980, 42 USC 1436a; 24 CFR 5.500; HUD Notice H 99-34 (which extends H 95-55)

Section 214 states that HUD cannot make housing assistance available to immigrants unless they have an eligible immigration status. This status covers most permanent residents, and also farmworkers who are lawful temporary residents, but not persons here on a student visa. It also includes asylees, parolees, persons whose deportation has been withheld because of a threat of life or freedom, and persons who have been granted amnesty. See 42 USC 1436a(a), which refers to Title 8 (at 8 USC), and ¶7 of H 95-55.

Process for determining eligibility for, and amount of, HUD assistance for families with noncitizen members

When a person applies for a HUD housing program, she must **declare** that she is a U.S. citizen or national, has an eligible immigration status, or does not contend to have an eligible status. 24 CFR 5.508(c)-(e). Then, the “responsible entity” (owner or PHA) must give the applicant a notice of the requirement to **submit evidence** (INS document for noncitizens, see ¶7 of H 95-55) of that status. 5.508(f) (for persons not proficient in English, all notices in this process, “where feasible”, must be in a language they can understand, 5.502).

After receiving documentation of status, the responsible entity must have INS **verify** the status. 5.512. If there is a negative INS verification, the applicant may **appeal** to the INS, and also request an **informal hearing** with the responsible entity if the INS appeal is unsuccessful (or in lieu of an INS appeal). 5.514

If the eligibility determination process, up to the INS appeal stage, has not been completed, and the family is otherwise eligible for assistance or move-in, those events cannot be delayed. 5.514(b)

If the final immigration eligibility status determination as to one or more (but not all) members is negative, they are a “**mixed family**”, and eligible for **prorated assistance**. (standard level of assistance for household size x fraction or % of members with eligible INS status) 5.518-.520 (a mixed family, or a family that has been receiving assistance before there is a final negative determination about the INS status of all members, may get a **temporary deferral of termination of assistance** for up to 18 months. 5.518(a)(2)