



Dear FSS Community,

It's finally here! The Final Rule implementing the re-authorization of the FSS program that was passed as part of the Economic Growth Act in 2018 has been signed by the HUD Secretary and published in the Federal Register on May 17, 2022.

Over the past four years, the Final Rule cleared the HUD as the Proposed Rule, cleared the Office of Management and Budget (OMB) as a Proposed Rule, was published for public comment as a Proposed Rule, received over 100 comments, cleared HUD again as the Final Rule, and cleared OMB again as the Final Rule, thereby enacting the law through regulation.

Thank you to all of the people who worked with law-makers for at least 8 years before the law passed, provided public comment, and continued to provide excellent FSS programs to over 60,000 FSS participants every year!

Now that we have a Final Rule, what can you expect?

First, please read the FSS Final Rule, which you can find in the [Federal Register](#) directly or will be on the [HUD FSS Resources Page](#) next week.

The first part of the FSS Rule describes all the comments that came in and HUD's response – either making a change or not – and why. The second part contains the actual new regulations, which will update 24 CFR 984 and add 24 CFR 877 (to include a few new/different regulations for multifamily owners).

The rule also updated several forms, available on the [HUD FSS Resources Page](#) next week, including:

- FSS Escrow Spreadsheet for PHAs – a fillable excel form with embedded calculations that incorporates the changes in definitions and escrow rules
- FSS Escrow Spreadsheet for Project-Based Rental Assistance (PBRA) owners

- HUD-52650 FSS Contract of Participation – incorporates all of the regulatory changes
- Multifamily reporting tool

These have also been updated, but you won't need them right away:

- FSS Monitoring Review Tool Self-Assessment
- FSS Annual Report

Major Changes

Below is a high-level overview of the major changes. Please read the whole notice for more information and details.

Funding

- Expands eligibility for program funding from only public housing and voucher programs to now include multifamily (Project-Based Rental Assistance) owners as well
 - PBRA owners have been eligible to run their own programs without HUD funding since the FY15 appropriations
- Codifies 1:25 for first coordinator and 50 for each additional ratio
- Requires HUD to fund renewals before new/expansion

Enrollment

- Expands eligibility for program enrollment from only the Head of Household to now any adult member of the household (Head of FSS Family) as designated by the family
 - One Contract of Participation (CoP) per family
 - Escrow goes to the person who signs the CoP
- ALLOWS Section 8(y) – HCV Homeownership to be in the FSS program
- Base Contract of Participation (CoP) is now 5 years “from the next rent certification after enrollment” (as opposed to 5 years from effective date)
- “120-day rule” is permanently gone. At enrollment, the most recent effective rent certification must be used to establish the baseline

Escrow

- Adds definitions for “Baseline Annual Earned Income,” “Baseline Monthly Rent,” “Current Annual Earned Income,” “Current Monthly Rent”
- removes cap on increases in escrow monthly savings for families making between 50% and 80% of AMI

- Forfeited Escrow is no longer returned to the PHA, thus eliminating an incentive the PHA may have to not graduate families. Forfeited escrow now goes to a pot “to be used for the benefit of FSS Families” so may help with barrier reduction

Extensions

- Expands “good cause” for extensions to include participants who are actively engaging in pursuing self-sufficiency goals (not only those who have had an impact that was out of their control)

Graduation

- The “30% rule” as an option for graduation has been removed
- “Welfare-free” requirement is now at graduation, no longer 12 months
- Adds a disposition of the CoP - “Termination with FSS Escrow Disbursement” for families that become disabled or that port in situations where they cannot continue to FSS program, but have not yet met all required goals, etc.

See a list of policies that need to be made at the local level in the FSS Action Plan section.

So, what’s next?

The Rule will be effective 30 days from the date of publication, which is June 17, 2022. That is the first day that you may apply the new policies and regulations. However, you will have 180 days, until November 14, 2022, to bring all of your policies into compliance. After that date, you must abide by the new regulations.

We will be providing a series of Technical Assistance webinars and resources to help you understand the changes and incorporate best practices into your program design and policies. Here’s what you can expect (and ESTIMATED dates):

- Webinar on the Final Rule – June
- Webinar on the changes in Escrow regulations and new Escrow Calculation Workbook – June
- PIH Notice on Establishment of the Escrow Accounting Line and Use of Forfeited FSS Escrow and update to Accounting Brief #23 - Financial Reporting for the Family Self-Sufficiency (FSS) Program – June
- Webinars on various aspects of program design and best practices for resident services programs – starting in June
- Update of warnings/errors in PIC FSS (50058 itself will not be updated yet) - July
- Updated FSS Promising Practices Guidebook – July
- Sample FSS Action Plan and Checklist with Guidance on how and when to submit updated FSS Action Plans for review - July
- Webinar on FSS Action Plan - July

- Updated online FSS Training (which will be a condition of award in the next NOFO cycle) – August

For PHAs, the Field Offices will be implementing FSS program monitoring starting in FY23. Every FSS program will be reviewed at least once every five years. The order of the reviews will be determined by each field office. The reviews will start with the new Self-Assessment form. You may access the form on the [HUD FSS Resources Page](#) and use it as a tool to review your own program as often as you wish.

HUD will begin issuing an Annual Report survey to all FSS grantees at the completion of each Period of Performance (which will be early in the calendar year starting in 2023). This will be in an electronic format such as MS Forms. The base content has been approved in the form that will be available for review on the [HUD FSS Resources Page](#). However, please do not complete the report/send it in until further instructions and an electronic format have been issued.

To keep abreast of information, resources and technical assistance, please sign up for [HUD's FSS Mailing List](#). This list is useful for senior staff, managers and front-line staff.

Quick FAQ about the Final Rule

Q: When MAY I start using the new regulations?

A: June 17, 2022

Q: When MUST I start using the new regulations?

A: November 14, 2022

Q: Do I have to update my FSS Action Plan?

A: Yes. Every FSS Program MUST update their FSS Action Plan to be in compliance with the new regulation. (Stay tuned for more information.)

Q: Does the Rule apply retro-actively?

A: No. However, if you would like for the new rules to apply to existing participants, you must, person-by-person, update their CoP with an acknowledgement that you've discussed the new rules with the participant and they want to have the new rules apply to them.

More Questions? Contact us at FSS@hud.gov

~The FSS Team