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BENEFITS PROTECTIONS FOR GUARANTEED INCOME PILOTS

Assessing the current state of benefits waivers and exemptions based on advocacy and learnings from the Guaranteed Income Community of Practice

Please note that the information provided in this fact sheet does not, and is not intended to, constitute legal advice; instead, the below is for general informational purposes only. The information contained in this fact sheet represents the contributors' best understanding as of November 2022.

Changes to policy, including publication of the proposed rule to the Housing Opportunity Through Modernization Act of 2016, may result in this information being out of date.

The Background: State of Benefits Protections

In the past 5 years, the movement and momentum for guaranteed income has grown dramatically, with over 100 pilots announced across the country. Pilots, alongside the organizations, communities, and elected leaders that run them, have worked together to build economic security by leveraging the power of unrestricted, recurring cash. As the momentum for guaranteed income pilots grows, it is important to assess how pilots can continue to protect public benefits for guaranteed income participants, ensuring that guaranteed income payments can supplement, not supplant, existing public benefits.

Today, the large number of pilots presents the opportunity to develop collective strategies for local, state, and federal policy change to mitigate benefit loss. Pilots in the Guaranteed Income Community of Practice (GICP), a learning and collaborating community with over 200 organizations, were recently invited to share how they have been navigating and protecting public benefits to determine the current state of benefits waivers and exemptions for guaranteed income. While there is no single path to

benefits protections, GICP pilots and their partners have made headway in obtaining clarification and guidance from benefits agencies through collaborative, coordinated, and persistent advocacy.

Existing Resources

- [What Is Guaranteed Income?](#) - This page discusses the basics of guaranteed income.
- [Benefits Cliff and Guaranteed Income Fact Sheet \(June 2021\)](#) - This explainer on the benefits cliff discusses the complications of protecting benefits for guaranteed income participants, and provides considerations for pilots to mitigate benefit losses.
- [Learning Memo \(March 2022\)](#) - This guide on protecting federal benefits created by the GICP Federal Benefits Protection Working Group serves to equip pilots with information on the advocacy strategies and lessons to protect public benefits for guaranteed income participants pioneered by the GICP and the Working Group. This Benefits Protections for Guaranteed Income Pilots fact sheet serves as an update to the Learning Memo.
- [Social Security Disability Insurance Brief](#) - This explainer by the National Academy of Social Insurance gives an overview of SSDI.

Supplemental Nutrition Assistance Program (SNAP)

Background and Previous Advocacy

As of August 2022, a coalition of guaranteed income pilots and their partners including the United Workers Center of New Mexico / Somos Un Pueblo Unido, Heartland Alliance, the Shriver Center on Poverty Law, the Illinois Department of Human Services, and the New Mexico Economic Relief Working Group, successfully advocated for federal clarification from the USDA Food and Nutrition Service (FNS) on how guaranteed income payments may be treated in SNAP income calculations.

FNS clarified that guaranteed income payments are permitted to be excluded from being considered as income when calculating SNAP benefits if: (1) the State also excludes Universal Basic Income (UBI) payments for TANF or Medicaid; and (2) UBI payments are sourced solely from private funds or a mix of private and public funds. Importantly, [7 CFR 273.9\(c\)\(19\)](#), the federal regulation that defines “income” for SNAP recipients and permits this exclusion, requires the State agency to “exclude for SNAP purposes the same amount of income it excludes for TANF or Medicaid purposes...[and to] specify in its State plan of operation that it has selected this option and provide a description of the resources that are being excluded” ([7 CFR 273.9\(c\)\(19\)](#)).

Steps for Program Staff

1. Determine if your pilot contains partial or total private funding. To be eligible for this waiver, the pilot must include some amount of private funding.
2. Determine if your state runs a SNAP “state plan.”

3. If your pilot includes private funding and your state runs a SNAP “state plan,” you should share the guidance with your state SNAP office and seek a **waiver** of pilot participants’ payments from income determinations under the FNS exemption criteria listed above.

Challenges and Considerations

- This exemption is permissive, not mandatory. The FNS clarification does not require states using a “state plan” to exclude payments, but rather provides guidance that they are allowed to do so.
- As this guidance was not passed down until August 2022, pilots enrolling participants before this date had not yet been able to benefit from this waiver. Pilots that started prior to August 2022 should therefore work expediently with their state departments to ensure that current guaranteed income participants can be grandfathered into the exemption alongside future participants.

Supplemental Security Income (SSI)

Background and Previous Advocacy

In June 2022, the City of Chicago successfully obtained an exemption of their monthly cash assistance payments from income eligibility for SSI. However, the Social Security Administration (SSA) determined that the SSI exemption only applies to the City of Chicago’s pilot, as noted in the SSA’s [EM-20014 REV 5 - Effect of COVID-19-Related Financial Assistance on SSI Income and Resources](#). In this example, the monthly cash assistance payment distributed as part of the Chicago Resilient Communities Cash Assistance Pilot will not count towards SSI income or asset determinations based on the disaster assistance exclusion in EM-20014 REV 5. However, if American Rescue Plan Act (ARPA) funds are no longer a funding source for Chicago’s program, the exemption would need to be re-evaluated. The SSA also determined that they would evaluate each cash assistance program asking for the exemption individually.

Potential Avenues Forward

- According to the SSA, pilots are advised to submit their own request of evaluation to the SSA along with pertinent information including but not limited to, funding sources, program overview, and participant qualification requirements.
- The GICP co-conveners and Benefits Protection Working Group are continuing to investigate other avenues forward including Assistance Based on Need exclusion for state funded pilots, the implementation of ABLE accounts or organizationally held escrow accounts, and the Interventional Cooperative Agreement Program. Updates on these processes will be forthcoming.

Steps for Program Staff

1. Determine if your pilot contains partial or total ARPA funding. If possible, include language in your application processes that ask about the negative impact of Covid or disaster assistance.
2. Approach your pilot site's local SSI office to ask for an SSI exemption. If applicable, emphasize that the pilot is a part of disaster relief efforts.
3. Regardless whether or not ARPA funds are being utilized to fund your pilot site, emphasize the temporary nature of the pilot. Ensure to also cite the Chicago precedent named above.

Challenges and Considerations

- The precedent is site-by-site dependent and is highly susceptible to denial as federal guidance was not issued.
- It may be helpful to use the term “monthly cash assistance” rather than “monthly guaranteed income.”

Social Security Disability Insurance (SSDI)

Background and Previous Advocacy

SSDI benefits are not affected by guaranteed income as the benefit amount is not based on a person's current income or asset holdings. Instead, SSDI is determined based on the amount of time a worker or their qualifying family member paid into the program, and if the person has a qualifying disability that prevents them from working. As long as the guaranteed income pilot explicitly states that the cash payments are not tied to a person's ability to start working, participants' SSDI eligibility will not be affected.

Steps for Program Staff

1. Ensure your pilot contains explicit guidelines that the guaranteed income payments to participants are not in any way tied to a person's ability to work.

Challenges and Considerations

- If SSDI offices are unfamiliar with guaranteed income, they may conflate guaranteed income payments as income derived from working and may falsely believe the participant is no longer disabled to an extent that affects their ability to work.

U.S. Department of Housing and Urban Development (HUD) Section 8: Public Housing and Housing Choice Vouchers (HCV)

Background and Previous Advocacy

Since 2021, a coalition of guaranteed income pilots and supporters have been advocating to protect Section 8 housing benefits for guaranteed income participants. The group requested that HUD take action at the federal level to exclude guaranteed income payments from income calculations for eligibility and monthly rent payments. To date, HUD has not taken such action, but has provided feedback about mechanisms that can be used by local Public Housing Authorities (PHAs). Further discussions regarding federal action are paused pending the publication of a proposed rule to implement certain parts of the Housing Opportunity Through Modernization Act (HOTMA). This proposed rule addresses (in part) how income is counted by HUD.

In the absence of federal action concerning guaranteed income payments, local public housing authorities (PHAs) and HUD regional offices have provided differing interpretations of current regulations, creating uneven standards of housing benefits protection for guaranteed income pilots across jurisdictions. The lack of federal, uniform guidance poses a challenge for pilots because their geographic reach often extends to multiple PHA jurisdictions.

Potential Avenues Forward

- PHAs participating in HUD's Moving to Work Demonstration can amend their existing plans to include exemptions for guaranteed income. When participating in the Moving to Work Demonstration, PHAs have the authority to waive many existing HUD regulations, including income rules under the [Statement of Authorizations](#) (p. 7, paragraph 11) and the [Operations Notice for the Expansion of the Moving To Work Program](#) (p. 5, Section 4 "Waivers" and p. 19, Appendix I, 1v, 1w "Alternative Income Inclusions/Exclusions"). There is also precedent of this mechanism being used by several pilots and approved by HUD.
 - This exemption can be applied to public housing and housing voucher recipients.
- Permissive deductions under [24 §CFR 5.611\(b\)](#) can be used by non-Moving to Work PHAs. This regulation states that PHAs have the authority to adopt additional deductions from annual income, providing that they establish a written policy for such deductions.
 - This exemption does not apply to housing voucher or Section 8 project-based rental assistance recipients.
- PHAs can submit a request to HUD headquarters for a waiver under the General Waiver Authority [24 CFR § 5.110](#). Waiver requests under § 5.110 are considered on a case-by-case basis for good cause. Using this mechanism, PHAs would need to individually request a waiver for an applicable regulation.

- There is precedent of the Housing Voucher Management & Operations Division previously waiving short-term supplemental payments from local governments from annual income calculations for Housing Voucher participations.
- While waivers under § 5.110 can technically apply to all beneficiaries, in the case of the San Francisco Housing Authority (for the Abundant Birth Project) a waiver was only approved for Housing Voucher recipients. The PHA was instructed to use Permissive Deductions to exclude guaranteed income payments for the project's Public Housing recipients.

Steps for Program Staff

1. Connect with other pilots in your area (as applicable) to determine whether they have approached the PHAs you hope to work with on benefit protections. Work may already be underway, or protections may have already been established that you can apply to your pilot. If you are a small pilot, presenting a joint request with other pilots to your local PHA may bolster your chances of success.
2. Determine if your PHA participates in a Moving To Work Demonstration. You can find out if your PHA is participating in the Moving To Work demonstration [here](#).
 - If your PHA participates in a Moving To Work Demonstration, work in partnership with your PHA by asking when the renewal period for their PHA is, and work with them to write guidelines excluding guaranteed income participants from your Moving To Work plan. The best time to do this will be during the renewal period as it requires less work on the part of the PHA, but this can also be done with a PHA Moving To Work amendment.
 - Currently, four PHAs have agreed to protect Section 8 housing benefits for participants in guaranteed pilots: the Cambridge Housing Authority (MA), Oakland Housing Authority (CA), Housing Authority for City of Baltimore (MD), and the Philadelphia Housing Authority is in progress. Notably, these amendments were successfully made during and outside of the renewal periods.
 - If your PHA does not participate in a Moving To Work Demonstration, share [24 §CFR 5.611\(b\)](#) with your PHA and request that they exclude guaranteed income payments from consideration using their authority to adopt additional deductions from annual income for public housing recipients. You can also share the General Waiver Authority [4 CFR § 5.110](#) and inquire if your PHA would be willing to submit a waiver request to HUD Headquarters to apply these same protections to your pilot's housing voucher recipients.
 - Work with your PHA to identify reasons your pilot meets the definition of "good cause" criteria included in [§ 5.110](#). The poverty reduction impact and asset building potential of pilots could be compelling reasons for HUD to exclude this income from eligibility and rent determinations. Emphasize any research/evaluation components of your pilot and how a waiver may support or advance the research.

[The City of Providence adopted Permissive Deductions](#) to protect Public Housing recipients for its GI program. The Abundant Birth Project used a combination of Permissive Deductions and the General Waiver Authority to protect both Public Housing and Housing Voucher Recipients. See the [Protecting Benefits in Guaranteed Income Pilots report](#), pages 30-33.

Challenges and Considerations

- It is a burden on the pilot to identify all of the PHAs operating in their pilot service area and to clarify if these PHAs participate in the Moving To Work program.
- It is time consuming on both the parts of the pilot staff and the PHA to modify local plans, especially if it is not during a renewal period.
- Local PHAs do not receive funding support from HUD to cover the costs of the exclusion. PHAs may also be hesitant to implement protections for small pilots due to the work involved. Good faith relationships must therefore be established and maintained by the pilot program staff and PHA office, to obtain a positive outcome.
- The permissive deductions mechanism does not apply to housing vouchers or Section 8 project-based rental assistance recipients.
- The General Waiver Authority, while technically applicable to all beneficiaries, has only been applied to Housing Voucher participants thus far. It is also reviewed and approved on a case by case basis by HUD headquarters. Once the proposed rule to implement certain parts of the Housing Opportunity Through Modernization Act (HOTMA) is finalized, HUD may decide to direct PHAs to use Permissive Deductions for both Public Housing and Voucher recipients rather than granting a waiver under the General Waiver Authority. However, this possibility has not been confirmed by HUD.

Strengthening Benefits Protections for the Future

Protecting and strengthening benefits protections for guaranteed income pilots and programs takes time, energy, and investment. While advocating for governmental change to take root locally or nationally, GICP members should feel empowered to learn from each other and share alternative, creative strategies that may protect benefits for participants, including but not limited to the escrow accounts previously mentioned, technology-based solutions to support participants, and other evolving strategies used by the GICP. Furthermore, pilots and their partners should continue to advocate for benefits protection in coordination and collaboration with local benefits agencies, local elected officials, members within the GICP, advocacy organizations, and program participants directly affected by public benefits barriers. Advocating for clarification and modification of public benefits not only serves pilots in their immediate guaranteed income work, but lays important precedents for

organizations to advance their direct cash assistance goals for the future. The headway made in benefits protection can then become stepping stones to a permanent, federal, guaranteed income.

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