

Chapter 6

ESCROW ACCOUNT

INTRODUCTION

The establishment of an escrow account is offered as a financial incentive to families for participation in the FSS program. Generally, under this incentive, the amount of an increase in family rent resulting from an increase in earned income is escrowed. That is, usually a family's rent or share of the rent goes up when the family experiences an increase in earned income. In the FSS program, this is still the case, but the part of the rent representing the increase is deposited into an account as an escrow credit. The funds from this escrow account then become available to FSS families upon successful completion of their contracts of participation.

This chapter explains how the FSS escrow account works, including calculating the amount of the escrow credit and disbursing the funds, and also covers the proper way for the PHA to manage and report on the account.

This chapter contains two parts:

Part I: The Escrow Account: This part provides an overview of how the escrow account works, including calculating the escrow credit and disbursing the funds upon completion of the contract of participation.

Part II: Escrow Fund Accounting and Reporting: This part describes the requirements for managing the escrow account, including both accounting and reporting requirements.

PART I. THE ESCROW ACCOUNT

6-I.A. OVERVIEW

As an integral incentive to the FSS program, it is very important to have clear-cut policy spelling out how the escrow account works. This includes policy regarding the calculation of the FSS credit amount, the disbursement of FSS account funds, the use of account funds for homeownership, and forfeiture of the FSS escrow account.

6-I.B. CALCULATING THE FSS CREDIT AMOUNT

For FSS families who are very low-income families, the FSS credit is the lesser of 30 percent of current monthly adjusted income less the family rent, or the current family rent less the family rent at the time of the effective date of the contract of participation. The family rent is obtained by disregarding any increases in earned income (as defined in 24 CFR 984.103) from the effective date of the contract of participation. For FSS families who are considered low-income families but not very low-income families, the FSS credit is calculated in the same manner but cannot exceed the amount computed for 50 percent of the median income [24 CFR 984.305(b)(1)].

FSS families who are not low-income families are not entitled to any FSS credit [24 CFR 984.305(b)(2)].

Determination of Family Rent and Total Tenant Payment

For purposes of determining the FSS credit, *family rent* for the public housing program is the total tenant payment as defined in 24 CFR Part 5, subpart F. For the HCV program, *family rent* is 30 percent of adjusted monthly income [24 CFR 984.305(b)(1)].

Total tenant payment for a family participating in the public housing FSS program is determined in accordance with the regulations set forth in 24 CFR Part 913.

Increases in FSS Family Income [24 CFR 984.304]

As described in the FSS credit calculations above, any increases in family earned income resulting in increases in family rent become deposited in the escrow account. For this reason, and because of the nature of the FSS account, any increase in the earned income of an FSS family during its participation in an FSS program may not be considered as income or a resource for purposes of eligibility of the FSS family for other benefits, or amount of benefits payable to the FSS family, under any other program administered by HUD, unless the income of the FSS family equals or exceeds 80 percent of the area median income (as determined by HUD, with adjustments for smaller and larger families).

Cessation of FSS Credit [24 CFR 984.305(b)(3)]

The PHA will not make any additional credits to the FSS family's FSS account when the family has completed the contract of participation, or when the contract of participation is terminated or otherwise nullified.

6-I.C. DISBURSEMENT OF FSS ACCOUNT FUNDS

Disbursement at Completion of Contract [24 CFR 984.305(c)(1)]

When the contract has been completed according to regulation, the amount in an FSS account in excess of any amount the FSS family owes to the PHA will be paid to the head of the FSS family. However, in order to receive the disbursement, the head of the FSS family must submit a certification (as defined in §984.103) to the PHA at the time of contract completion that, to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

Caribou Housing Agency Policy

The family is considered “Graduated” from the FSS Program when they have completed the FSS COP. In order for the FSS family to complete the program the family must meet one of the following sets of criteria:

- A. The head of the family must seek and maintain suitable employment and must verify that no one in their household has received welfare for the previous 12 months. (See the FSS Program definitions of the work “seek”, “suitable”, and “welfare” below.) The COP has been completed and the participant has obtained full-time employment (even if the contract term has not expired); or
- B. 30% of the family’s monthly adjusted income equals or exceeds the FMR for the unit sized for which the family qualifies, based on the Housing Agency’s occupancy standards (even if the contract term has not expired).

Definitions:

- **Seek:** The Caribou Housing Agency’s FSS program defines “seek” as: making progress towards obtaining employment through calling employers, dropping off applications, and Career Center referral. The participant must demonstrate the progress quarterly by reporting to the FSS Coordinator who will complete the FSS Progress Report Form.
- **Suitable:** The Caribou Housing Agency FSS program defines “suitable” employment as lawful activity that falls into at least one of the following categories:
 - Employment which is at least 32 hours per week. Employment must be with one (or more) legitimate employers.
 - Self-Employment which is verifiable and reflects net earnings (after business expenses deducted) of at least 32 hours per week and at current minimum wage.
 - In addition to the above definitions, suitable employment will be determined by the FSS Program Coordinator, after consulting with the head of household, and will be determined based on skills, education, and job training of the participant and available job opportunities in the area.
- **Welfare:** HUD defines “welfare” as only cash income assistance payments from Federal or State welfare programs, designed to meet the family’s ongoing basic

needs. It does not include food stamps, Social Security payments, Medicaid, or similar benefits.

When the family has met the above graduation requirements, the amount in the escrow account, in excess of any amount owed to the Caribou Housing Agency by the FSS family, will be paid direct to the head of the FSS family without stipulation. The escrow funds are non-taxable and should not be considered “income” by any other public assistance program.

The escrow account will be managed by the Caribou Housing Agency and ownership of the funds will remain with the Department of Housing and Urban Development until the family has met the above requirement for final escrow disbursement.

Disbursement before Expiration of Contract Term (Interim)

FSS account funds may also be disbursed before the end of the contract term. If the PHA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term and the head of the FSS family submits a certification that, to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance, the amount in the family’s FSS account in excess of any amount the family owes to the PHA will be paid to the head of the FSS family [24 984.305(c)(2)(i)].

In addition, the PHA may at its sole option disburse FSS account funds before completion of the contract if the family needs a portion of the funds for purposes consistent with the contract of participation and the PHA determines that the FSS family has fulfilled certain interim goals established in the contract of participation. Such cases could include using the funds to assist the family in meeting expenses related to completion of higher education (e.g., college, graduate school) or job training, or to meet start-up expenses involved in creation of a small business [24 984.305(c)(2)(ii)].

Caribou Housing Agency Policy

The Caribou Housing Agency will allow interim disbursements prior to contract completion if the family is working to complete interim goals and if the family needs the funds for purposes consistent with the contract.

Only one (1) interim disbursement, per calendar year, per household, will be allowed out of each category below:

Withdrawals may be used for:

- On-Going Education or Training Expenses: such as books, tuition, tools, uniforms, and/or supplies. Bills must be provided and the Caribou Housing Agency will draft checks directly to the provider. The participant must provide proof of satisfactory completion of the activity.
- Auto Repairs: The Caribou Housing Agency will release funds for auto repairs to pass a Maine Motor Vehicle Safety Inspection, excluding cosmetic issues and for major system failure that is not due a lack of maintenance.
 - The Caribou Housing Agency will NOT release funds for auto repair which it considers routine maintenance such as oil changes, batteries, tires, etc.

- The Caribou Housing Agency will allow early withdrawal of funds if a car has been in an accident and the vehicle is not covered collision. The Agency will only pay for repairs sustained in the accident.

In all cases, the repairs must be necessary for transportation to work or school. The Caribou Housing Agency will request a written estimate and a final bill. A check will be issued directly to the provider upon completion of the work.

- Initial Purchase of a Vehicle: if a vehicle is necessary to get to work or school. The Caribou Housing Agency will draft checks directly to the Seller and require a copy of the Title and Till of Sale, along with a valid inspection to maintained in the family's file.
- One-Time Small Business Start-Up: The participant(s) must be working with an agency that provides small business start-up funds and must submit a business plan approved by the Caribou Housing Agency. The Agency will draft checks directly to the vendor(s).
- One-Time Down Payment on a Home: The participant(s) must have completed a homeownership education course and have their financing approved by the Caribou Housing Agency. The family may or may not be participant may or may not be participating in the Housing Agency's Homeownership Voucher Program. Checks will be drafted directly to the financing institution.

Withdrawals cannot:

- Be used to pay for rent, utilities, groceries, non-repair vehicle expenses (such as gas, registration, insurance, etc.), or any other purpose inconsistent with the intended uses outlined above.
- Be made for family members who are not the Head of Household or Co-Head, and who are not a signer on the COP.

Withdrawal request:

Request for early withdraws must be submitted in writing, no less three (3) business days prior to the need; must the specify the exact amount needed/requesting, state the reason for the request, and have an explanation of how the request will help the participant meet their goals outlined on the COP.

The Caribou Housing Agency will make every effort to expedite request as quickly as practical. A minimum of two business days will be required to process request(s).

- The FSS participant is responsible for 10% of the of total cost.
- The Caribou Housing Agency expects participant to use primary funding sources, such as ASPIRE or Vocational Rehabilitation, before requesting a withdrawal from the FSS escrow account. All early withdrawals are subject to the discretion and approval of the Caribou Housing Agency.

Participants will have ten (10) business days to provide any/all required documentation for the Caribou Housing Agency to process the request of an early withdrawal. The participant may request an extension in writing to the Caribou Housing Agency.

Future withdrawals will not be permitted until the participant has provided the required verification for previous withdrawals.

Failure to provide required documentation of early withdrawal will result in the participant to pay back the amount of the withdrawal, and is grounds for termination from the Family Self-Sufficiency Program, and forfeiture of all remaining escrow account funds.

Participant required to pay back funds will enter a repayment agreement following the Caribou Housing Agency's Administration Plan.

Verification of Family Certification at Disbursement

Interim disbursement may only occur after the family has completed certain interim goals and funds are needed in order to complete other interim goals. Final disbursement can only occur after the family has completed the contract of participation and all members are welfare-free as defined by regulation. Because of this, it follows that the PHA may require verification for the completion of interim goals or the contract of participation.

Before final disbursement of the FSS account funds to the family, the PHA may verify that the FSS family is no longer a recipient of welfare assistance by requesting copies of any documents which may indicate whether the family is receiving any welfare assistance, and by contacting welfare agencies [24 CFR 984.305(c)(3)].

HUD provides verification guidance in Notice PIH 2010-19. This guidance is mandatory for the public housing and housing choice voucher programs. The PHA's ACOP and/or Administrative Plan must contain verification policies following the hierarchy in this notice. The policies contained in the PHA's ACOP and Administrative Plan cover verification policies related to the FSS program in general. However, determining the need for interim disbursements may require more clarification as to what constitutes an acceptable third-party source.

Caribou Housing Agency Policy

The Caribou Housing Agency will require verification that the FSS family has completed certain interim goals, or has completed the contract of participation, and that the FSS family is no longer a recipient of welfare assistance, as relevant, before making interim and final disbursements.

Caribou Housing Agency will follow HUD's verification hierarchy set forth in Notice PIH 2010-19 to make these verifications. However, the PHA will use a *knowledgeable professional* as a third-party source to verify the need for interim disbursements.

Succession to FSS Account [24 CFR 984.305(d)]

FSS account funds should be disbursed to the head of the FSS family. However, if the head of the FSS family no longer resides with the other family members in the public housing or the HCV-assisted unit, the remaining members of the FSS family, after consultation with the PHA, have the right to designate another family member to receive the funds.

6-I.D. USE OF FSS ACCOUNT FUNDS FOR HOMEOWNERSHIP

According to regulation, a public housing FSS family may use its FSS account funds for the purchase of a home, including the purchase of a home under one of HUD's homeownership programs, or other federal, state, or local homeownership programs, unless the use is prohibited by the statute or regulations governing the particular homeownership program [24 CFR 984.305(e)].

Homeownership is just one option for use of the FSS account funds. PHAs may not restrict the use of escrow funds at contract completion [Notice PIH 93-24, C-13].

6-I.E. FORFEITURE OF FSS ACCOUNT FUNDS

Amounts in the FSS account will be forfeited when the contract of participation is terminated, or when the contract of participation is completed by the family (see Section 5-II.D. of this action plan) but the FSS family is receiving welfare assistance at the time of expiration of the term of the contract of participation, including any contract extension [24 CFR 984.305(f)(1)].

Caribou Housing Agency Policy

The FSS Participant will automatically forfeit their FSS Escrow when any of the following conditions apply:

1. The family fails to complete the goals listed on their contract of expiration.
2. The family fails to complete goals prior to contract expiration.
3. The family voluntarily withdraws from the program.
4. The family is terminated from the FSS program for non- participant.
5. The family moves to a new Housing Authority's jurisdiction, which does not have the FSS Program.
6. The family moves to a new Housing Authority's jurisdiction and fails to notify the FSS Coordinator of such transfer with 10 business days.
7. The family is removed from the Housing Choice Voucher Program for non-compliance of lease agreement and/or HCV Program policy and rules.
8. The family continues to receive welfare at the end of the FSS COP term (this not include Medicaid, childcare assistance, food stamps or housing subsidy).
9. Family fails to actively participant and pursue the long-term goals of the FSS contract.

Treatment of Forfeited FSS Account Funds

Treatment of forfeited FSS account funds differ depending on the type of FSS program the PHA operates. For public housing FSS programs, FSS account funds forfeited by the FSS family will be credited to Other Income and will become part of Unrestricted Net Assets. Forfeited FSS account funds will be counted as other income in the determination of operating subsidy eligibility for the next budget year [24 CFR 984.305(f)(2)(i)].

In the housing choice voucher program, forfeited FSS account funds will be treated as program receipts for payment of program expenses under the PHA budget for the program, and will be used in accordance with HUD requirements governing the use of program receipts [24 CFR 984.305(f)(2)(i)].

PART II. ESCROW FUND ACCOUNTING AND REPORTING

6-II.A. OVERVIEW

Regulations set forth specific requirements involving the accounting and reporting for the FSS escrow account. This part describes those requirements and the PHA policy necessary for managing the account from the PHA perspective.

6-II.B. ACCOUNTING FOR FSS ACCOUNT FUNDS

When establishing FSS escrow accounts, the PHA must deposit the FSS account funds of all families participating in the PHA's FSS program into a single depository account for each (public housing or HCV) program. In addition, the funds held in this account must be invested in one or more of the HUD-approved investments [24 CFR 984.305].

The total of the combined FSS account funds will be supported in the PHA accounting records by a subsidiary ledger showing the balance applicable to each FSS family. During the term of the contract of participation, the PHA periodically, but not less than annually, credits the amount of the FSS credit (see Section 6-I.B.) to each family's FSS account [24 CFR 984.305(a)(2)(i)].

Caribou Housing Agency Policy

The Caribou Housing Agency will credit the amount of the FSS credit(s) to each family's account on a monthly basis.

Proration of Investment Income [24 CFR 984.305(a)(2)(ii)]

Because the FSS account funds are to be invested, the investment income for those funds in the FSS account will also need to be credited to each family's account. By regulation, these funds are to be prorated and credited to each family's FSS account based on the balance in each family's FSS account at the end of the period for which the investment income is credited.

Caribou Housing Agency Policy

Each month the full amount of the investment income for funds in the HCV FSS account will be prorated and credited to each family's subsidiary line item after the deduction of unpaid rent and other amounts due under the HCV-assisted lease.

Reduction of Amounts Due by FSS Family [24 CFR 984.305(a)(2)(iii)]

If the FSS family has not paid the family contribution towards rent, or other amounts, if any, due under the public housing or HCV-assisted lease, the balance in the family's FSS account shall be reduced by that amount (as reported by the owner to the PHA in the HCV FSS program) before prorating the interest income. If the FSS family has fraudulently underreported income, the amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.

6-II.C. REPORTING ON THE FSS ACCOUNT

Each PHA is required to make a report, at least once annually, to each FSS family on the status of the family's FSS account.

At a minimum, the report must include [24 CFR 984.305(a)(3)]:

- The balance at the beginning of the reporting period
- The amount of the family's rent payment that was credited to the FSS account, during the reporting period
- Any deductions made from the account for amounts due the PHA before interest is distributed
- The amount of interest earned on the account during the year
- The total in the account at the end of the reporting period

Caribou Housing Agency Policy

The Caribou Housing Agency will provide FSS participants a bi-annual statement on the status of their FSS escrow account.