

## **Obtaining Non-work Social Security Numbers Needed by VAWA Self-Petitioners to Maintain Public and Assisted Housing (Section 214 Housing)**

By: Limayli Huguet and Leslye E. Orloff

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### **I. Introduction**

This document provides guidance on best practices that should be used by local victim advocates and attorneys in the field to assist Violence Against Women Act (VAWA) self-petitioners in obtaining non-work social security numbers (SSNs) they need to be able to continue receiving or to obtain HUD-funded public and assisted housing as VAWA self-petitioners. VAWA self-petitioners are abused spouses and children of U.S. citizens and lawful permanent residents who have filed for immigration relief based on their suffering spousal abuse, sexual assault, or child abuse. Congress made VAWA self-petitioners eligible for federal public benefits including public and assisted housing as “qualified aliens” in 1996.<sup>1</sup> The U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Homeland Security (DHS) implemented procedures to facilitate verification of VAWA self-petitioners’ eligibility for public and assisted housing.<sup>2</sup>

VAWA self-petitioners are eligible and can receive public and assisted housing benefits once their VAWA self-petition has been filed.<sup>3</sup> When victims file an application for public or assisted housing, the Public Housing Authority will verify the victim’s eligibility with DHS through a process that usually takes about a week. When the Public Housing Authority receives confirmation of eligibility from DHS following the verification request, the VAWA self-petitioner is eligible for public and assisted housing to the same extent as all other housing recipients and applicants.<sup>4</sup>

HUD regulations require that public and assisted housing recipients participating in many HUD funded programs provide a Social Security Number.<sup>5</sup> VAWA self-petitioners who receive

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<sup>1</sup> 8 U.S.C. § 1641 (2008).

<sup>2</sup> HUD Notice PIH 2017-02 (HA), Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures (Jan. 19, 2017), <https://www.hud.gov/sites/documents/PIH2017-02.PDF>.

<sup>3</sup> Memorandum from Acting Gen. Counsel Tonya Robinson for Secretary of HUD Julián Castro on the Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980 (Dec. 15, 2016); Notice from Lourdes Castro Ramirez, Principal Deputy Assistant Secretary for Public and Indian Housing on Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures (Jan. 19, 2017), <https://www.hud.gov/sites/documents/PIH2017-02.PDF>.

<sup>4</sup> Benish Anver, Alexandra Brown, and Leslye E. Orloff, How to Advocate for Public and Assisted Housing for Your Battered Immigrant or Trafficking Survivor Client (June 22, 2014 updated February 8, 2017), <http://niwaplibrary.wcl.american.edu/pubs/pub-asst-housing-advocacy/>

<sup>5</sup> 24 C.F.R. § 5.216; 74 Fed. Reg. 68,924 (Dec. 29, 2009).

public and assisted housing will need to obtain and submit a social security number. Residents are given some period of time, usually not longer than 6 months, to obtain and submit a social security number to HUD in order to continue to receive public or assisted housing benefits under the regulations. Currently, many VAWA self-petitioners, particularly those whose abusers are lawful permanent residents,<sup>6</sup> will need to seek non-work social security numbers from the Social Security Administration because the DHS processing times for VAWA self-petitioners are longer than the time provided for the self-petitioner to obtain the SSN needed to maintain housing subsidies.

VAWA self-petitioners with pending applications must wait until their immigration case is approved before they receive work authorization, deferred action and become eligible for a social security number. As of November 2019, DHS backlogs have resulted in an 18 month to two-year waiting time before VAWA self-petitioners' cases are approved. Victims must await this approval to become eligible for work authorization and a work authorized social security number. For this reason, VAWA self-petitioners need access to non-work social security numbers to be able to continue receiving public and assisted housing benefits.

At the end of this document, we provide a list of forms that advocates and attorneys should take with them when they accompany VAWA self-petitioners to the local social security administration office to apply for a non-work social security number.<sup>7</sup> The PHA will need to write a letter to the Social Security Administration (SSA), on PHA letterhead, informing SSA that the VAWA self-petitioner is eligible for public or assisted housing and needs SSA to issue the victim a non-work social security number that is required by HUD regulations for HUD to continue providing the victim subsidized housing.

It is important to note that many VAWA self-petitioners will be immigrant domestic violence and child abuse survivors who have been living in public and assisted housing units with their perpetrators. Once these victims file their VAWA self-petitions, they will usually then obtain protection orders, removing the perpetrator from the housing unit. They will also be filing an application with HUD to receive the public or assisted housing subsidy, so the victim and her children can afford to remain in the unit. Other victims will be applying as new public or assisted housing tenants, and battered spouses will often qualify for priority access to public and assisted house as domestic violence victims.

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<sup>6</sup> VAWA self-petitioners abused by U.S. citizen spouses, parents or over 21-year-old children who simultaneously file VAWA self-petitions and work authorization requests may be able to receive work authorization within the time allotted by the Public Housing Authority and HUD to obtain an SSN. However, as processing times at DHS can be delayed it is recommended that if at the time the victim files for public or assisted housing they do not have work authorization and an SSN they should seek a letter from the PHA that they can take to SSA requesting a non-work social security number.

<sup>7</sup> Advocates and attorneys should review the following document for a list of the documents that a VAWA self-petitioner should take with them to apply for public and assisted housing from the Public Housing Authority (PHA). Benish Anver, Alexandra Brown, and Leslye E. Orloff, How to Advocate for Public and Assisted Housing for Your Battered Immigrant or Trafficking Survivor Client (June 22, 2014 updated February 8, 2017). <http://niwaplibrary.wcl.american.edu/pubs/pub-asst-housing-advocacy/>

## II. VAWA Self-Petitioners Need Access to Non-Work Social Security Numbers

Section 214 of the Housing and Community Development Act of 1980 (Section 214) is a federal housing law that restricts access to certain federal housing programs by limiting eligibility based on immigration status to U.S. citizens, legal permanent residents and specific categories of eligible immigrants. The housing programs covered by Section 214 are:<sup>8</sup>

- Public Housing;
- Housing Choice Voucher;
- Project-based Section 8;
- Section 8 Moderate Rehabilitation;
- Section 236;
- Section 235 Homeownership Housing;
- Rent Supplement;
- Housing Development Grants (low-income units only); and
- Section 23-Leased Housing Programs.

HUD policy memos have confirmed that immigrant spouses and children who have filed VAWA self-petitions<sup>9</sup> have eligible immigration status to apply for these housing assistance programs.<sup>10</sup>

The Section 214 programs are administered by various private or public entities. For example, the Public Housing and Housing Choice Voucher programs are HUD programs that are generally administered at the local level by quasi-governmental public housing agencies (PHAs). For the Voucher program, PHAs provide housing assistance to private owners participating in the program for the benefit of low-income families. Private owners and their managers administer other programs, such as Project-based Section 8, with HUD providing the rental assistance directly to owners to help low-income families.

For certain programs, HUD regulations require disclosure, documentation and verification of applicants and participants' Social Security Numbers (SSNs).<sup>11</sup> These programs are Public Housing, Housing Choice Voucher, other Section 8, Section 202, Section 221(d)(3), Section 236, and Section 811 programs.<sup>12</sup> With limited exceptions, every member of an applicant and participant household in these programs must disclose their SSNs to the public housing agency or owner, along with documentation to verify the SSN.<sup>13</sup> This requirement does not apply to household members who do not contend eligibility for the program and, therefore, would not receive assistance.<sup>14</sup> Therefore, in order for VAWA self-petitioners to access these housing subsidies, they must have SSNs. VAWA self-petitioners are eligible for public and assisted

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<sup>8</sup> 42 U.S.C. § 1436a(b); 24 C.F.R. § 5.500.

<sup>9</sup> VAWA self-petitions are filed on form I-360.

<sup>10</sup> Memorandum from Acting Gen. Counsel Tonya Robinson for Secretary of HUD Julián Castro on the Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980 (Dec. 15, 2016); Notice from Lourdes Castro Ramirez, Principal Deputy Assistant Secretary for Public and Indian Housing on Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures (Jan. 19, 2017), <https://www.hud.gov/sites/documents/PIH2017-02.PDF>.

<sup>11</sup> 24 C.F.R. § 5.216; 74 Fed. Reg. 68,924 (Dec. 29, 2009).

<sup>12</sup> 24 C.F.R. § 5.214.

<sup>13</sup> 24 C.F.R. § 5.216.

<sup>14</sup> 24 C.F.R. § 5.216(a).

housing benefits beginning when they file their self-petition. However, they will not be eligible to obtain SSNs for employment purposes until they are granted work authorization upon approval of their VAWA self-petitions, which can take up to two years. Thus, self-petitioners will need to apply for non-work SSNs to receive federal housing benefits covered by Section 214 while they are awaiting adjudication of their VAWA self-petitions and receipt of work authorization.

The current SSA POMs indicate the SSA will issue a non-work SSN to obtain a particular benefit or service to which they are entitled.<sup>15</sup> In its 2017 notice, HUD wrote that VAWA self-petitioners can indicate they are of “satisfactory immigration status” when applying for subsidized housing under Section 214. Moreover, in its 2016 Memorandum, HUD noted a VAWA self-petitioner’s application for a Section 214 program cannot be “delayed, denied, reduced or terminated” based on the applicant’s immigration status while their VAWA self-petition is pending.<sup>16</sup>

Once victims have filed the VAWA self-petition, they bring a copy of their self-petition and/or their receipt notice to the PHA or owner to demonstrate their eligibility for public and assisted housing subsidies. The housing provider then submits this information to HUD and DHS via the Systematic Alien Verification for Entitlements (SAVE) System for verification using a process that was designed to facilitate verification of eligibility that is consistent with special VAWA confidentiality protections.<sup>17</sup> VAWA self-petitioners can begin receiving HUD subsidies during the time they are awaiting DHS verification. The verification is received usually in less than a month.

Once the VAWA self-petitioner receives verification from DHS, they have a limited period of time to provide the housing provider with a SSN to maintain or secure subsidized housing. According to HUD policy, PHAs can allow certain noncitizens who are legally in the U.S., and would qualify for 214 housing but for the SSN, temporary admission for 90 days. This period can be extended for another 90 days if there are unforeseen circumstances out of the applicant’s control. During this time, the PHA would generate an alternate ID (ALT ID) for the applicant and send that number to HUD by completing the SSN field in the HUD 50058/50059 family characteristics report form. HUD then verifies the SSN using a database of the Social Security Administration.<sup>18</sup>

While the victim’s VAWA self-petition is pending adjudication, whether a VAWA self-petitioner receives work authorization and is eligible for a work-authorized SSN depends on if the abusive spouse, parent or step-parent is a U.S. citizen or lawful permanent resident. When the perpetrator is a U.S. citizen, spouse or parent, the victim can concurrently file their application for a self-petition and their application for lawful permanent residency. The current wait time for

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<sup>15</sup> Social Security Administration, RM 10211.600 (July 31, 2014).

<sup>16</sup> See Memo from Robinson, *supra* note 7 at 1-2.

<sup>17</sup> 8 U.S.C. § 1367; see HUD Notice PIH 2017-02 (HA), Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures (Jan. 19, 2017), <https://www.hud.gov/sites/documents/PIH2017-02.PDF>

<sup>18</sup> See PIH Notice 2018-24, Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System’s Identity Verification Report (Nov. 27, 2019), [https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24\\_EIV\\_SSN\\_Notice\\_FINAL.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf)

abused spouses and children of U.S. citizens to receive legal work authorization is up to 24 months.

When the abusive spouse, parent or step-parent is a lawful permanent resident, the victim must wait much longer because they must wait for the self-petition to be approved before they can obtain legal work. According to the November 2019, case processing times published by the United States Citizenship and Immigration Services (USCIS) at DHS,<sup>19</sup> it could take up to 23 months for a VAWA self-petitioner to receive approval. As a result of these DHS wait times for work authorization, VAWA self-petitioners need to apply for and present to HUD a non-work SSN or they risk losing the HUD subsidies for which they are eligible to receive during the gap between verification of eligibility and receipt of work authorization. SSN policy provides for the fact that VAWA self-petitioner applicants can obtain a non-work SSN for the purposes of accessing Section 214 housing assistance in the SSA POMS.<sup>20</sup>

### **III. Best Process for Obtaining Non-Work SSN for VAWA Self-Petitioners**

VAWA self-petitioners need to be able to file for and obtain non-work SSNs. HUD regulations require that all recipients of certain HUD-funded public and assisted housing provide HUD with an SSN.<sup>21</sup> Once VAWA self-petitioners (battered immigrant spouses and children) file for housing subsidies under the Section 214 programs, the victims' advocate or attorney should simultaneously request that the PHA who received the victims' application for public or assisted housing to issue a letter that the victim can request a non-work social security number from SSA. Advocates and attorneys should provide the PHA with a draft letter that they can complete after the PHA receives the verification of the VAWA self-petitioners eligibility from DHS.<sup>22</sup> The letter will need to include the following information:

- The name, date of birth, and immigration case number of the VAWA self-petitioner
- A statement that the victims are eligible for public or assisted housing under Section 214 of the Housing and Community Development Act of 1980
- That the VAWA self-petitioner meets all of the requirements for HUD's public and assisted housing programs except for having a social security number which is required under HUD regulations<sup>23</sup>
- This letter is written to comply with the documentation described in Social Security POMS RM 10211.600 "Request for a SSN from an Alien without Work Authorization"
- Please issue a non-work SSN and supply the applicant with a receipt/acknowledgment of the request for PSA tracking purposes

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<sup>19</sup> Processing time for VAWA self-petitions, Petition for Amerasian, Widow(er), or Special Immigrant (I-360) at Vermont Service Center, <https://egov.uscis.gov/processing-times/> (last visited November 7, 2019).

<sup>20</sup> See Social Security Administration, RM 10211.600.

<sup>21</sup> See 24 C.F.R. § 5.216.

<sup>22</sup> Victims eligible based on an approved I-130 visa application filed by the victim's abusive spouse will need to provide proof to the PHA that the victim with the approved I-130 visa application has been battered or subject to extreme cruelty. In these cases the PHA's letter to SSA would likely issue after the PHA has made the battering or extreme cruelty determination. Please note the battered or extreme cruelty determination only applies to I-130 applications and no other VAWA self-petitioners. For information on how to prove battering or extreme cruelty for the PHA see Leslye E. Orloff, Eligibility of Battered Immigrants Spouses and Children With Family Based Visa Petitions for Public and Assisted Housing: Determinations of Battering or Extreme Cruelty (August 23, 2018)

<sup>23</sup> 24 C.F.R. § 5.216; 74 Fed. Reg. 68,924 (Dec. 29, 2009).

- The name and contact information of the PHA requesting staff member

Advocates and attorneys should then accompany the VAWA self-petitioner to the local Social Security Administration office<sup>24</sup> and should bring with them the following information<sup>25</sup>:

- The letter from the PHA stating that the VAWA self-petitioner is seeking a non-work SSN required in order to continue receiving public and assisted housing for which the self-petitioner is eligible<sup>26</sup>
- A copy of the HUD social security requirement<sup>27</sup>
- Proof of Age, through documents including, but not limited to, a birth certificate, a religious record showing age or date of birth, a hospital records or birth, or a Passport<sup>28</sup>
- Proof of identity, through documents including, but not limited to, driver's license, identity card, school record, medical record, marriage records, passport, or Department of Homeland Security document<sup>29</sup>

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<sup>24</sup> For more information on social security number requirement and the difference between non-work social security numbers and work authorized social security numbers *see* Leslye Orloff and Edna Yang, Obtaining Non-Work Social Security Numbers (November 17, 2000) <http://niwaplibrary.wcl.american.edu/pubs/pb-tool-memononworkssns-11-17-00/>

<sup>25</sup> POMS RM 00203.001(C)(2), D)(2), (D)(4)

<sup>26</sup> 20 C.F.R. § 422.107(e);

<sup>27</sup> 24 C.F.R. § 5.216; 74 Fed. Reg. 68,924 (Dec. 29, 2009)

<sup>28</sup> 20 C.F.R. § 422.107 (b)

<sup>29</sup> 20 C.F.R. § 422.107(c)