

Message to HOPWA grantees, sponsors and associates—

March 8, 2012

For your information, please find below two recent messages sent to the HUD listserv on homelessness assistance programs. As they address area collaborations and access to support, these are of interest to HOPWA grantees, sponsors and associates – and please feel free to subscribe to this additional information source, see links below.

On the Equal Access to Housing rule, please note that the HOPWA program is also directly included under the new provisions. As additional guidance is issued, it will be shared and posted on the HRE site.

Thank you for your work on behalf of persons with housing needs in your community

David Vos
Director
Office of HIV/AIDS Housing

Final Rule on “Equal Access to Housing in HUD Programs – Regardless of Sexual Orientation or Gender Identity” Published

HUD’s final rule, [“Equal Access to Housing in HUD Programs – Regardless of Sexual Orientation or Gender Identity,”](#) is effective immediately (March 5, 2012). It applies to all McKinney-Vento-funded housing programs, as well as to other housing assisted or insured by HUD. The rule creates a new regulatory provision that generally prohibits considering a person’s marital status, sexual orientation, or gender identity (a person’s internal sense of being male or female) in making homeless housing assistance available. As the nation’s housing agency, HUD’s goal is to ensure that our programs are carried out free from discrimination and are models for equal housing opportunity. Now lesbian, gay, bisexual, and transgender (LGBT) people are guaranteed equal access to our housing and shelters.

Additional guidance will be made available on the [HUD Homelessness Resource Exchange](#) to guide providers in addressing questions about the rule. HUD is finalizing a webinar on the rule that will be available for the public to view on YouTube later this week.

You may also want to see [FHEO’s website](#) for the public for a link to the rule, information on the rule, examples of violations, and where to turn for more information. A link to a webinar related to this topic will be posted there later this week. Finally, FHEO set up an email address for LGBT fair housing questions, LGBTfairhousing@hud.gov . If you have additional questions regarding the rule, please contact your local CPD representative or submit a question to the [HUD HRE Virtual Help Desk.](#)

FY2012 Update for CoC Leadership, Grantees and Stakeholders

Continuum of Care Leadership, Grantees, and Stakeholders—

As I did last year around this time, I wanted to take a moment to update you on the status of a few key items: the 2011 competition new project awards, the HEARTH Act regulations, our plans to implement the HEARTH Act programs, and the technical assistance resources we are making available to you. While we were fortunate to receive level funding for FY2012, our budget is not large enough to fully fund all of the provisions of the HEARTH Act. We have made difficult decisions about how to proceed for FY2012, guided as always by the value that we must ensure the best possible outcome for both the people we serve, and for the programs that serve individuals and families who are homeless and at-risk of homelessness.

2011 CoC Competition New Projects

In the next few weeks, HUD expects to release announcements for the FY2011 CoC competition new project grant awards. To maximize the number of new units funded this year, we have been aggressively recapturing funds from previous grants that have not been fully expended and drawn down by the end of their grant period. Through this process, we are also identifying grantees that consistently return money, since in many cases these funds cannot be re-used for other CoC programs and must be returned to the U.S. Treasury. ***We strongly encourage grantees and CoCs to review all renewal project budgets and spending rates to prevent these types of recaptures, thereby demonstrating strong stewardship of federal funds at both the grantee and CoC levels.***

HEARTH Act Implementation and Budget

The HEARTH Act, enacted into law in 2009, required HUD to write six sets of regulations: the Definition of Homeless, the Consolidated Plan Conforming Amendments, the Emergency Solutions Grant (ESG) Program, Homeless Management Information Systems (HMIS) Requirements, the Continuum of Care (CoC) Program, and the Rural Housing Stability Assistance Program (RHSP). The first four of these are currently published as final, proposed, or interim rules. We anticipate the rules on the CoC and RHSP programs to be published shortly.

While we would have preferred to release all six rules at the same time, the complexity of the rules themselves and the rulemaking process made this infeasible. Instead, we released the rules as each was completed, and we prioritized the definition of homelessness as required in the law. Below is a brief overview of the status of each rule along with relevant budget information for FY2012.

1. The final rule on the *Definition of Homeless* went into effect on January 4, 2012. A webinar, listserv message and some technical assistance materials have been posted on the [Homelessness Resource Exchange](#) (HRE). Additional materials are under development. HUD also published a Notice on the limitation on the use of SHP and S+C funds on Category 3 of the definition (also posted on the HRE).
2. On January 4, 2012, the interim rules on the *Emergency Solutions Grant* (ESG) program and corresponding amendments to the *Consolidated Plan* went into effect. The comment period for the ESG rule closed on February 3, 2012, and SNAPS is now working on a final rule based on the public

comments received. Until a final rule is published, the interim rule regulates the use of the second allocation of FY2011 ESG funds and the FY2012 ESG allocation.

The FY2012 budget allocation for the ESG program is \$286 million, an increase from the total FY2011 allocation of \$250 million. This increase will assist communities to transition programs created under HPRP, which expires at the end of this fiscal year. These funds are expected to particularly impact homeless families with children, a HUD priority population. Please see [Secretary Donovan's message](#) about priorities for the new ESG program.

3. On December 9, 2011, the proposed rule for *HMIS Requirements* was published in the Federal Register. The comment period for this interim rule closed on February 7, 2012. This rule is not yet in effect. Homeless Management Information Systems (HMIS) currently in operation must continue to use the standards currently in place (the 2004 Technical Standards and the 2010 Data Standards) until the HMIS rule is published as final. In the coming months, HUD also intends to publish new required HMIS data elements and HMIS technical standards that will conform to the performance measurement requirements detailed in the HEARTH Act. In addition to the new standards, HUD will provide specific guidance to CoCs on how performance measures for the new statutory requirements will be calculated (i.e., how exactly to calculate average length of homelessness or recidivism at the CoC level).
4. HUD is in the final stages of clearing for release both the *Continuum of Care (CoC)* and *Rural Housing Stability Program (RHSP)* rules. Congress has directed that these rules be published as interim so they can be implemented in FY2012; therefore, the 2012 NOFA will reflect the HEARTH requirements and all grants awarded through the 2012 competition will be required to comply with the interim rules.

With the total FY2012 appropriation being \$1.901 billion, which is \$477 million less than requested, neither all of the HEARTH Act requirements nor all of the HUD-related goals stated in the *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness* can be fully realized. Therefore, HUD will be deciding which provisions of HEARTH to implement in order to maximize the impact on the people we serve. Given limited resources, communities should be aware of the following, which will be clearly outlined in the FY2012 CoC NOFA:

- Renewal of existing projects, as provided for in HEARTH, is a priority;
- While the HEARTH Act authorizes increases in administration, leasing, rental assistance and operating funds for renewals, it is unlikely that projects will receive the maximum increases allowed by law;
- Continuum of Care planning funds may be made available, although at levels lower than the 3% allowed by law;
- Funding for Unified Funding Agencies is not likely to be available in FY2012; and
- HUD does not intend to implement the High Performing Communities provisions in FY2012 due to lack of sufficient data and budget constraints.

The RHSP allocation, which was initially proposed at \$25 million, will likely be significantly less than proposed, and will only be funded once the CoC renewal burden demand has been met.

Technical Assistance

Technical assistance resources will be key to the implementation of HEARTH. HUD has already released many tools related to the Homeless Definition and ESG rules, such as guidebooks, webinars, and factsheets. We are working with our TA partners to develop additional materials on these rules and to support the roll-out of the CoC and Rural programs. All technical assistance is publicized and accessible through the Homelessness Resource Exchange (HRE) at www.hudhre.info and through our various listservs. Please sign up for our listservs to stay informed and visit the HRE regularly to download new resources, ask a question, register for webinars, and request individualized technical assistance.

Our ***Ready, SET (SNAPS e-learning Tuesdays), Go*** webinar series, held most Tuesdays at 3:30pm ET, provides regular information on the regulations and promising practices. For instance in the coming weeks, HUD and USICH will be hosting a discussion about Objective 10 of the *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness* to “transform homeless services to crisis response systems that prevent homelessness and rapidly return people who experience homelessness to stable housing.” All webinars are archived and can be accessed at any time from the HRE.

In 2011, HUD also began the Continuum of Care Check-up process, designed to help CoCs determine their current capacity and to identify local action plans to improve and address areas of concern. To date, 379 CoCs have initiated this process. In order to receive TA, CoCs must have conducted the CoC Check-up.

What Can CoCs and Grantees do to Prepare for HEARTH?

As you are waiting for the final two rules to be published, first and foremost, CoCs should be engaged in strategic planning and coordination exercises for homeless services in the community – including both HUD and non-HUD funded resources. Following are some suggestions of actions that you, the CoCs and grantees, can *and should* be doing to prepare.

- Under HEARTH, performance and compliance will be a significant part of the competitive selection process. Now is the time to begin looking at your current portfolio of SHP and S+C projects relative to expenditure of funds and performance to determine what, if any, changes should be made.
- Conduct an analysis to determine which partnerships within your community work well and which need more attention and focus. For example, can the relationship between the Continuum of Care and the Department of Education’s Homeless Liaisons or the local Public Housing Authority be strengthened? Is their expertise being fully utilized to meet the needs of homeless and at-risk individuals and families?
- CoCs will have the ability to reallocate grants under HEARTH to improve system performance and alignment with local needs. CoCs should begin considering which projects, in whole or in part, they may want to reallocate to free up resources for new efforts. Under HEARTH, all funds will be counted towards a CoC’s Hold Harmless Need (HHN) amount—including projects that are currently funded under S+C; therefore, for the first time, CoCs will be permitted to include these grants in any reallocation strategy. To help start the conversation about reallocation locally, please see the [USICH webinar](#) held on the topic last fall.
- HPRP will expire September 30, 2012. In many communities it has already ended. CoCs will need to consider how they will attempt to fill gaps that are left with the more limited pool of

ESG and CoC funds. Consider what HPRP strategies worked best and whether any of these strategies are more effective, efficient, and attractive to consumers than the current ESG and CoC-funded approaches.

- What efficiencies can and should be made to your current homeless assistance and response system? Now is the time to begin creating those efficiencies and putting them into place. This may include considering all of the non-HUD homeless assistance funding coming into the community and strategizing how those resources can be maximized, or could include how to coordinate or centralize the assessment process for homeless services. I encourage your participation in the upcoming USICH/HUD webinars on these topics.
- Under HEARTH, there will be an even greater emphasis on data and the use of HMIS. CoCs should assess their data tools, counting methodologies, and HMIS and determine if changes and/or improvements need to be made. Where shortfalls are identified, now is the time to ask for assistance. CoCs can request technical assistance on the HUD HRE.
- If you have not already done so, READ the rules that have already been published. The comment period for the ESG and HMIS rules has now passed, but it is not too late to get up to speed on these documents. This applies to the CoC and the project grantees. Further, when the CoC and RHSP rules are published as interim, HUD welcomes any and all comments. Please pay particular attention to those areas in the preamble where we specifically ask for comment. For example, when the ESG interim rule was published, HUD specifically requested comments on the definition of chronically homeless. The comment period is the time to provide HUD with feedback—not after these rules have been published as final.

In addition to strategic planning, CoCs should be working closely with grantees to prepare for HEARTH. As stated previously, as part of the roll-out there will be a variety of trainings and tools made available. For example, following the publication of the final rule on the definition of homeless, HUD held a series of webinars to provide guidance and training on the rule. CoCs should consider organizing around these trainings to ensure all of its grantees are participating and receiving the same message. You may also want to make sure that each of the CoC grantees are signed up for the Homeless Assistance Programs listserv.

HUD is focused on providing communities with the resources needed to successfully implement HEARTH within the limits of the final appropriations for FY2012 and FY2013 (when that budget is passed by Congress). We will do our best to keep you updated on progress related to HEARTH implementation as well as the other items discussed above.

Thank you all, as always, for your hard work on behalf of all the homeless persons that we serve.

Take Care,
Ann

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Find Homeless Resources at: www.hudhre.info and www.hmis.info