

Homeless Assistance Reauthorization

National Policy Update June 2009

Summary of the HEARTH Act

On May 20, 2009, President Obama signed into law a bill to reauthorize HUD's McKinney-Vento Homeless Assistance programs. The bill was included as part of the Helping Families Save Their Homes Act. The McKinney-Vento reauthorization provisions are identical to those included in two bills introduced earlier this year, both known as the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act. The Senate bill (S. 808) was introduced by Senators Jack Reed (D-RI), Kit Bond (R-MO), and 11 other Senators. The House bill (H.R. 1877) was introduced by Representatives Gwen Moore (D-WI), Judy Biggert (R-IL), and 5 other House Members.

Now that the bill is enacted, HUD will have up to 18 months to develop regulations to implement the new McKinney program.

Background

HUD's McKinney-Vento homeless assistance programs were last reauthorized in the Housing and Community Development Act of 1992. Since then, numerous proposals have been debated, but controversies prevented Congress from passing any significant reauthorizations. However, a number of changes were made to the McKinney-Vento programs by HUD and by Congress through the annual appropriations process. The most significant change by HUD was the creation of the Continuum of Care process, which was first implemented in 1995.

In September 2007, the Senate Banking Committee approved the Community Partnership to End Homelessness Act (S. 1518). The HEARTH Act (H.R. 840) was introduced in the House in February 2007 by the late Congresswoman Julia Carson (D-IN) and Congressman Geoff Davis (R-KY). On July 31, 2008, the House Financial Services Committee approved the bill and several amendments to it by voice vote. After discussions between House and Senate staff, a compromise was agreed to that closely resembled S. 1518 and H.R. 840. The compromise was passed by the House as H.R. 7221 on a 355-61 vote. However, the bill did not pass the Senate before the end of the session.

On April 2, 2009, Senators Reed, Bond, and 11 other Senators and Representatives Moore, Biggert, and 5 other House Members introduced identical versions of a McKinney-Vento reauthorization bill, the HEARTH Act. That measure was attached by amendment to the Helping Families Save Their Homes Act (S. 896), which was enacted on May 20, 2009. The HEARTH Act makes numerous changes to HUD's homeless assistance programs:

- Homelessness prevention will be significantly expanded.

- New incentives will place more emphasis on rapid re-housing, especially for homeless families.
- The existing emphasis on creating permanent supportive housing for people experiencing chronic homelessness will continue, although families could also be considered chronically homeless.
- Rural communities will have the option of applying under a different set of guidelines that offer more flexibility and more assistance with capacity building.

Prevention and Rehousing Assistance: The New Emergency Solutions Grant

Funding for the Emergency Shelter Grant (ESG) will be distributed by the same formula to the same jurisdictions as it is now. However, there will be significant changes in the amount of funding and how that funding can be used.

- ESG is renamed the "Emergency Solutions Grant," signifying its shift to funding homelessness prevention and re-housing, as well as emergency shelter.
- Eligible activities include the traditional shelter and outreach activities of the current ESG program, but also include more prevention and re-housing activities—short- or medium-term rental assistance, housing relocation or stabilization services such as housing search, mediation, or outreach to property owners, legal services, credit repair, security or utility deposits, utility payments, final month's rental assistance, and moving costs or other relocation or stabilization activities. These prevention activities are similar to those being funded under the Homelessness Prevention and Rapid Re-Housing Program (HPRP) that is being operated by HUD as part of the American Recovery and Reinvestment Act.
- Prevention and re-housing activities can serve people who are homeless or at risk of homelessness, including people who have less than 30 percent of area median income and move frequently for economic reasons, live doubled up, are facing eviction, live in a hotel or motel, live in severely overcrowded housing, or are exiting an institution. Anybody considered homeless by other federal statutes can also be served with prevention or re-housing assistance.
- Funding for ESG increases to 20 percent of the amount available for homeless assistance. This is a significant increase over the existing allocation for ESG.
- At least 40 percent of ESG funds are dedicated to prevention and re-housing activities, although there is a hold-harmless provision that ensures that ESG grantees do not have to reduce funding for traditional shelter and outreach activities. In most communities, the amount of funding for emergency shelter and outreach will remain similar to current levels, but there will be much more funding for prevention and re-housing.

- The maximum allowance for Administrative expenses rises from 5 percent to 7.5 percent.

Definition of Homelessness

The bill modifies the definition of homelessness and also allows grantees to use some Continuum of Care funding for people who are not homeless under HUD's definition, but are homeless under definitions of homelessness used by other federal agencies.

HUD's existing definition of homelessness includes people living in places not meant for human habitation (the streets, abandoned buildings, etc), living in an emergency shelter or transitional housing facility, and—although it is not specifically described in the McKinney-Vento statute—facing the loss of housing within the next seven days with no other place to go and no resources or support networks to obtain housing.

The HEARTH Act adds to this definition situations where a person is at imminent risk of homelessness or where a family or unaccompanied youth is living unstably. Imminent risk includes situations where a person must leave his or her current housing within the next 14 days with no other place to go and no resources or support networks to obtain housing. Instability includes families with children and unaccompanied youth who: 1) are defined as homeless under other federal programs (such as the Department of Education's Education for Homeless Children and Youth program), 2) have lived for a long period without living independently in permanent housing, 3) have moved frequently, and 4) will continue to experience instability because of disability, history of domestic violence or abuse, or multiple barriers to employment.

A community can use up to 10 percent of its Continuum of Care (CoC) funding to serve families with children and unaccompanied youth who are homeless because they are living unstably (as described in the previous paragraph) or meet the definitions of homelessness used by the Department of Education or any other federal agency. Communities with low rates of homelessness—those with fewer than 0.1 percent of their population homeless in their most recent point-in-time count—can use more of their funding to serve families with children and unaccompanied youth who meet the definition of homelessness used by the Department of Education or another federal agency. Approximately 20 percent of CoCs, mostly rural and suburban, had homelessness rates below 0.1 percent in 2005.

Applying for Funds

The process of applying for homeless assistance funding will be similar to the current process. Applicants in a community continue to organize into a Continuum of Care and submit a joint application to HUD. The entire application is scored, and projects are funded in the order that they are prioritized in the application.

Changes include the following:

- The entity that applies for funding is known as a Collaborative Applicant.

- The selection criteria focus more on actual performance and include incentives for rapid re-housing for homeless families and permanent supportive housing for individuals and families experiencing chronic homelessness. (See: *Incentives, Selection Criteria, and Set Asides* below.)
- Under certain circumstances, Collaborative Applicants can apply to HUD for funding, receive all of the funding designated for the community they represent, and then sub-grant funds to all the project sponsors in the community. A Collaborative Applicant that performed this role is known as a "Unified Funding Agency." A Collaborative Applicant can become a Unified Funding Agency in one of two ways: 1) by applying to HUD for that status, or 2) by being designated by HUD if HUD finds that the Collaborative Applicant has the requisite capacity, that HUD and the Collaborative Applicant agree on what technical assistance would be needed, and that the designation would benefit the community. In addition to the regular duties of a Collaborative Applicant, a Unified Funding Agency has to ensure that project sponsors use proper accounting methods and receive annual audits of evaluations of financial records.
- A Continuum of Care that is entirely rural or in a rural state (Alaska, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, or Wyoming) may apply under a different set of criteria (see *Rural Program*). A Continuum of Care that is in a rural state but consists entirely of a metropolitan area may not apply under the rural program.

Responsibilities of the Collaborative Applicant

A Collaborative Applicant submits a consolidated application to HUD and has other responsibilities and benefits.

- It can receive up to 3 percent of its community's funding for administrative costs. If the Collaborative Applicant is also a Unified Funding Agency, it can receive up to 6 percent.
- It may designate another entity, such as a consultant, to help it apply for and receive grants and perform other administrative duties.
- It is responsible for ensuring that its community participates in HMIS.

Continuum of Care Program

Under the HEARTH Act, the Shelter Plus Care, Supportive Housing Program, and Moderate Rehabilitation/SRO programs will be consolidated into a single "Continuum of Care Program" with the same eligible activities as all of the programs combined.

Re-housing services are explicitly added as an eligible activity, including housing search, mediation or outreach to property owners, credit repair, provision of security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that help homeless people move immediately into housing or would benefit people who have moved into permanent housing in the last 6 months.

Operating costs are redefined to include service coordination.

Project sponsors may request a 15-year agreement for project based assistance, with up to the first 5 years being paid for with the initial grant, and the rest paid for with future appropriations.

Project sponsors may receive up to 10 percent for administrative costs.

Reasonable amounts can be used for staff training.

Permanent Housing Rental Assistance can only be administered by PHAs or government agencies.

Incentives, Selection Criteria, and Set Asides

HUD is required to provide incentives for strategies that are proven to reduce homelessness. These strategies include rapid re-housing programs for homeless families and permanent supportive housing programs for individuals and families that experience chronic homelessness. HUD can add additional proven strategies if there is research to support the strategies and after a period of public comment. A community that has fully implemented a proven strategy can apply for the incentive and use it for any other eligible activity, including the prevention and re-housing activities allowed under the new ESG program. The amount and specific nature of the incentives is not spelled out in the legislation and will be determined by HUD.

Thirty percent of funding is for new permanent housing for individuals with a disabling condition or families with an adult member who has a disabling condition. The requirement does not apply to each individual Continuum, only nationally (for example, some Communities can use 25 percent if others use 35 percent).

At least 10 percent of funding is for permanent housing activities for homeless families, which include families with or without a member with a disability. This requirement overlaps with the 30 percent requirement. (For example, 25 percent of funding could be for permanent housing for individuals with a disability, 5 percent could be for homeless families with an adult member with a disability, and 5 percent could be for families without a member with a disabling condition.)

In addition to the incentives described above, HUD will continue to use a pro-rata need formula and selection criteria to determine funding. Within 2 years, HUD will be required to develop a pro-rata need by regulation.

The selection criteria include the following factors:

- **Performance:** The previous performance of the community, including reductions in the length of time people are homeless, reductions in homelessness recidivism, thoroughness in reaching homeless people, reductions in the number of homeless people, increases in jobs and income, and reductions in the number of people who become homeless. For communities that use funding to serve people who are not included in HUD's definition of homelessness but are included in other federal

definitions of homelessness, performance also includes the degree to which those families and youth avoid homelessness and live independently.

- **Plans:** The quality and comprehensiveness of a community's plan to reduce homelessness, ensure homeless children receive education services, and address the needs of all subpopulations. Also considered is the extent to which the plan identifies quantifiable performance measures, timelines, funding sources, and entities responsible for implementation. For communities that intend to use funding to serve people who are not included in HUD's definition of homelessness but are included in other federal definitions of homelessness, HUD will assess how the plan prevents homelessness and helps families and youth live independently.
- **Methodology:** The methodology for prioritizing funding, including whether the process uses periodically-collected information and analysis, considers the full range of opinions in the community, is based on objective, publicly-announced criteria, and is open to proposals from other entities that have not previously been funded.
- **Other factors:** Leveraging, coordination, and other factors that HUD determines are important. For communities that plan to use funding to serve people who are not defined as homeless by HUD but are defined as homeless in other federal statutes, selection criteria include goals and outcomes for those populations, including the degree to which the funding will prevent those families and youth from becoming homeless and the degree to which it helps them achieve independent living.

Rural Programs

Continuums or individual projects that are entirely rural or are in rural states can apply for funding under a simplified set of criteria. Their application includes a description of who lives in the worst housing conditions in the community, and their programs can serve people who are homeless or at risk of homelessness.

Rural applicants are scored only in comparison to other rural applicants, which may make them more competitive. At least five percent of funding is available under the rural program unless there were not enough qualified applications for funding.

Rural continuums are defined as those that have no metropolitan statistical areas, or that have only rural counties within metropolitan statistical areas. A Continuum of Care will also be considered rural if it is a mix of rural and urban areas and is in one of the following states: Alaska, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, or Wyoming.

Funds can be used to serve people who are homeless or at risk of homelessness, and the eligible activities will be:

- Rent, mortgage, or utility assistance;
- Security deposits, first month's rent at a new location, and relocation assistance;

- Short-term emergency lodging in motels or shelters;
- Construction of new transitional or permanent housing;
- Acquisition or rehabilitation of a structure to provide supportive services, transitional housing, or permanent housing;
- Leasing of property for transitional or permanent housing or to provide supportive services;
- Rental assistance to provide transitional or permanent housing;
- Operating costs;
- Rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;
- Supportive services; and
- Costs associated with making use of Federal inventory property programs to house homeless families.

In addition, up to 20 percent of funding could be used for capacity building activities.

The selection criteria for the rural program will include the following:

- The participation of potential beneficiaries in determining need;
- The degree to which the project addresses the most harmful housing conditions in the community;
- The degree of collaboration with other entities;
- Performance of the organization in improving housing situations;
- For organizations that have previously received funding, the extent to which they improved conditions in the community;
- Pro-rata need; and
- Other HUD-determined criteria.

Match

Collaborative Applicants must provide a match equal to 25 percent of the community's total grant. The match is applied community-wide, not project by project. Collaborative Applicants do not have to provide any match for leasing grants. The match can be cash or in-kind when documented by a Memorandum of Understanding. The match requirements are the same for rural applicants.

High Performing Communities

Communities that are high performing, which means they have low levels of homelessness, can use as much funding as they want for prevention and re-housing assistance to homeless and at-risk households. To achieve designation as a high performing community, a Collaborative Applicant has to show that:

1. The average length of stay in homelessness has declined by 10 percent from the year before or is below 20 days;
2. Fewer than 5 percent of people who exit homelessness become homeless again in the next 2 years or the rate of recidivism back into homelessness declines by 20 percent from the year before;
3. Homeless people are encouraged to participate in homeless assistance services; and
4. If the recipient has been a high performing community in the past, it used that designation well.
5. For communities that use funding to serve people who are not included in HUD's definition of homelessness but are included in other federal definitions of homelessness, the criteria would include effectiveness at helping those families and youth avoid homelessness and live independently.

Permanent Housing Renewals

Funding for renewals of permanent housing rental assistance, leasing, and operating costs can come from either the appropriations account for HUD's Homeless Assistance Grants or the account for the Project-Based Section 8 program. All permanent housing renewals will be funded non-competitively for one year at a time. Project Sponsors can, if they choose, request up to 15-year contracts for project based rental assistance that would be subject to annual appropriations.

Family Homelessness Research

A research program is authorized to compare the effectiveness of different interventions for homeless families at three sites.

DV Program Participation in HMIS

Projects that primarily provide victim services to survivors of domestic violence, dating violence, sexual assault, or stalking do not provide personally identifying information to an HMIS. They can provide non-personally identifying information.

Non-Discrimination against Families with Older Children

Beginning in two years, McKinney-Vento-funded shelters, transitional housing, and permanent supportive housing programs that serve homeless families are not allowed to deny admission to families based on the age of their children. There is one exception for transitional housing programs, but only if they were able to provide comparable services for the family elsewhere, and only if the transitional housing program is implementing a best practice that requires that it accept families with children of a specific age.

Authorization

For fiscal year 2010, \$2.2 billion will be authorized. For comparison, in fiscal year 2009, \$1.677 billion was appropriated. Authorized levels are not a guarantee of funding; they act more as a recommendation of funding levels. Actual funding is determined annually through the Appropriations process.

Interagency Council on Homelessness

The U.S. Interagency Council on Homelessness is also reauthorized with several changes:

- Added to the council are the heads of the Social Security Administration, the Department of Justice, the Office of Management and Budget, the Office of Faith-Based and Community Initiatives, and the USA FreedomCorps.
- The Council is required to develop a National Strategic Plan to End Homelessness and update it annually.
- Added to the duties of the council are encouraging the creation of State Interagency Councils on Homelessness, encouraging agencies to improve access to benefits, conducting research and evaluations, developing joint federal agency initiatives, developing constructive alternatives to criminalization, and convening a public meeting to discuss definitions of homelessness.

Other Provisions:

- The HEARTH Act sets a goal of ensuring that no family is homeless for more than 30 days.
- HUD will have to release the NOFA no more than 3 months after enactment of appropriations. Awards must be announced no later than 5 months after applications are due (6 months for the first two years after enactment). Project sponsors must meet all requirements for obligation no later than 9 months after an award is announced (24 months for acquisition, construction, or rehab). HUD may grant an extension.
- The definition of chronic homelessness changes to include families with children and ignore brief stays in institutional care.
- Up to 1 percent of funding can be used for technical assistance.
- The Government Accountability Office (GAO) is required to perform a study of rural homelessness and a study of the appropriate administrative fee for the Emergency Solutions Grant.