



June 21, 2010

Regulations Division
Office of General Counsel
451 7th Street, SW., Room 10276
U.S. Department of Housing and Urban Development
Washington, DC 20410-0500.

Re: Docket No. FR-5333-P-01; Homeless Emergency Assistance and Rapid Transition to Housing: Defining "Homeless"

The National Alliance on Mental Illness (NAMI), respectfully submits the following comments regarding the proposed rule—Defining "Homeless." NAMI is the nation's largest organization representing individual living with serious mental illness. Through education, support and advocacy, NAMI works to improve the lives of people living with serious mental illness, including those experiencing chronic homelessness.

NAMI recognizes that many of the decisions about the parameters of the definition of "homeless" were included in the HEARTH Act. In a few cases however, HUD has had to make decisions to operationalize aspects of the definition. On the whole, these decisions closely match the intent of the HEARTH Act. NAMI offers the following comments and recommendations.

Overall Comments

HUD has requested input on whether the definition rule should be repeated in the regulations for the Emergency Solutions Grant (ESG) program, the new Continuum of Care program and the Rural Housing Stability program. As suggested, HUD should indeed repeat the regulatory text in these regulations rather than cross referencing. Repeating the text will make it much easier for people to find what they need in the regulations.

HUD has proposed that people who were homeless prior to entering an institution – such as a public psychiatric hospital – are homeless upon exit if their stay in that institution was for fewer than 90 days. Currently, there is very little evidence to support any particular standard. The case for a shorter standard is that it would discourage institutional care providers from neglecting their responsibility to ensure that people in their care have appropriate housing upon exit. The case for a longer standard is that even with 90 days, an institution could not reasonably create a stable housing situation for people who had been homeless prior to entry. HUD's decision is a reasonable balance of these two competing pressures.

The third category of homelessness has many requirements, most of which are contained in the HEARTH Act. HUD's proposal does include three decisions that the HEARTH Act leaves to its discretion:

- defining the phrase "a long period without living independently," which HUD has interpreted to mean 90 days without being a leaseholder or homeowner;
- defining "frequent moves," over that 90-day period, which HUD has determined means having moved at least three times; and
- defining "multiple barriers to employment," which HUD has defined as two or more of the following: the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration, and a history of unstable employment;

Overall, there is little actual evidence to either support or contradict HUD's decisions on "long period," or "frequent moves." In the absence of data, NAMI has some concern that 90 days and three moves (in other words, living in four different places over 90 days) is too restrictive. It is possible that extending the time period to 180 days would be preferable. Whichever period HUD selects, NAMI recommends that HUD study the phenomenon of persistent instability, and modify this regulation in the future, if the need to do so is indicated by evidence.

NAMI recommends that HUD include additional information in the Homeless Definition regarding income and disability eligibility – as described in the HEARTH Act statute – including clarification as to whether a family whose sole disabled member is a minor child qualifies as "disabled" under the HEARTH Act programs. This additional information would be helpful in assisting homeless providers in better understanding the target population that can be served by the HEARTH Act programs.

Regarding HUD's request for feedback about whether certifications should be made on HUD approved forms, NAMI cannot offer comments or helpful insights. At the same time, NAMI is concerned about the documentation requirements generally. A person who is homeless needs immediate help, and documentation should not stand in the way of receiving emergency assistance. NAMI recommends that HUD require the most minimal levels of documentation for people seeking emergency assistance such as emergency shelter. This can be subject to later verification if necessary, but a person who comes to a shelter saying they need a place to stay right away should have as few barriers as possible, and documentation should never delay assistance. NAMI recognizes the need for more extensive documentation for transitional housing, or permanent housing, and it is reasonable to expect more documentation for those resources.

The proposed rule describes the definition of "homeless," which establishes basic eligibility for some types of homeless assistance. However, it does not provide guidance as to how grantees should prioritize which people they serve, and with which types of assistance. In future regulations and other guidance, HUD should encourage grantees to establish a rational system of prioritizing people for assistance and ensuring that people receive the most appropriate assistance.

Finally, NAMI believes that existing grantees will need intensive guidance and support to assist them in transitioning to the new definition of homeless. There are many programs that received McKinney-Vento funds to target a specific subpopulation of homeless persons based on the needs of the community and the agency's capacity and skills. HUD should provide clear guidance to existing grantees as to whether these agencies would have to serve a broader group of homeless persons now or in the future and if so, how to assist them in transitioning their program model and ensuring success. This issue is particularly sensitive for those permanent McKinney-Vento grantees that in FY 2005 had to adjust their program models to adapt to more narrower homeless eligibility criteria for permanent housing grants. Another change in the program model could lead to instability in the project and impact not only the nature of the project, but its overall success. HUD should prioritize assisting existing grantees through this historic change.

Recommendations for §577.2 Definitions. *Homeless, homeless individual, and homeless person*

(1)(iii) states that a person exiting an institution where they resided for 90 days or less and who was in a shelter or place not meant for human habitation prior to entering the institution is considered homeless. The proposed rule does not define an institution in this context, and NAMI recommends including in the rule, or in other guidance, a list of institutional settings.

(3) covers additional situations where an unaccompanied youth or family with children can be considered homeless. The proposed rule does not define the age range for an unaccompanied youth. NAMI recommends that a person be considered an unaccompanied youth for the purpose of the definition if they are up to age 24. NAMI also recommend that the phrase "unaccompanied youth" be further clarified to "youth not in the physical custody of a parent or guardian."

(3)(i) describes the circumstances under which an unaccompanied youth or family have not lived independently for a long period of time. It covers circumstances where unaccompanied youth and homeless families with children and youth "have not had a lease, ownership interest..." NAMI recommends changing the statement to "have not resided in a place where they had a lease, ownership interest..." This would include a situation where a person is on a lease, but cannot live in the residence where they are on a lease because of domestic violence, because the housing is not habitable, or for other reasons.

(3)(iii) also includes the category, "a history of incarceration." NAMI recommends changing it to "a history of incarceration or detention." Generally, youth are detained and not incarcerated.

Recommendations for §577.3 Recordkeeping Requirements

(3)(i)(C) describes the process of certifying an oral statement that a person must leave their current residence in 14 days or less. Self certifications are also required in (3)(ii) stating that the individual or head of household seeking assistance has no subsequent residence identified and lacks the resources or support networks to obtain housing. The process of self

certifying adds no value, and the statute specifically allows for an oral statement in the case of people losing their housing in 14 days. If a person makes a statement to an intake worker, the worker should be able to document it. Also, it would be helpful if, in future guidance, HUD would develop a standard set of questions that could be used to make these determinations.

(4)(iii) describes documentation requirements for determining whether a person can be expected to continue to experience persistent instability. It states that an intake worker's observation should be confirmed by an "appropriate licensed medical professional." NAMI recommends removing the term medical, as a licensed non-medical professional will likely be able to provide acceptable evidence in many cases.

Also, unaccompanied youth who are under 18 years of age should be presumed to meet the requirements of §577.3 (3)(iii) because being under the age of majority and being unaccompanied by a parent or guardian each represent barriers to employment. Certain parts of the proposed rule require the absence of a characteristic, for example, the absence of a high school diploma or GED. HUD should establish more helpful guidance for how to document these cases.

Some of the documentation requirements, particularly those under §577.3 (4)(iii) necessitate a level of assessment that is not appropriate for most homeless assistance. NAMI recommends that HUD provide guidance to providers instructing them that when ascertaining homelessness, they administer the least intrusive questions first, and stop asking when they have determined that the person is homeless. Requesting information about disability, including serious mental illness, may be appropriate when there is a program or service designed to address an individual's needs arising from the answers to these questions, but these questions should only be asked if absolutely necessary.

Some people who come to a shelter or other homelessness assistance program may be hesitant to reveal information or sign a certification because of a disability or because they fear for their safety. The proposed rule should include special provisions in those cases that allow intake, outreach, and other caseworkers to take into account other evidence that may be available.

Respectfully Submitted,

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