

Homeless Assistance Reauthorization/HEARTH Act

National Policy Update July 2008

Summary of the HEARTH Act (with Manager's Amendment) Updated July 14, 2008

This document summarizes the major provisions of the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2007. The version of the HEARTH Act summarized here includes an amendment that is being circulated and is expected to be adopted by the Financial Services Committee. The amendment significantly modifies the HEARTH Act. The amendment may change slightly prior to being adopted, so some of the details in the analysis below may change.

Prevention and Rehousing Assistance

Significant new resources would be added to serve people who are homeless, doubled up, living in hotels, or in other precarious situations. These resources would be added as part of the "Emergency Solutions Grants." The new ESG would combine activities from the existing Emergency Shelter Grants program with new prevention and rehousing activities that can serve people who are homeless or at risk.

Prevention and rehousing activities would include short or medium term rental assistance, housing relocation or stabilization services, housing search, mediation or outreach to property owners, legal services, credit repair, security or utility deposits, utility payments, and assistance with moving costs. Being at risk of homelessness would be defined as having income below 30 percent of area median income and facing eviction, living doubled up, in a hotel, or in some other precarious housing situation.

Twenty percent of homeless assistance funding would be for Emergency Solutions Grants. And at least half of that amount would be for prevention and rehousing activities. There is a hold-harmless provision that says that in no case would a jurisdiction have to spend less on traditional emergency shelter activities than they spent in the year prior to enactment.

Definition of Homelessness

The definition of homelessness would include people who are currently considered homeless as well as people who will imminently lose their housing and have no other housing available. The language being considered would include as homeless people who must leave their housing within 14 days and have no other housing identified and lack the resources and support networks to obtain housing. Evidence that the person must leave in 14 days would include:

- A court order resulting from an eviction notice;
- Residence in a hotel or motel without resources to continue staying more than 14 days;

- Other credible evidence that a family or individual must leave their current housing situation.

Serving Families and Youth Who Meet Other Definitions of Homelessness

In addition the Emergency Solutions Grant noted above, Continuums of Care could utilize up to 10 percent of their competitive 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. Continuums of Care that have low rates of homelessness—those with fewer than 0.1% of their population homeless in their most recent point in time count—could 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% of CoCs, mostly rural and suburban, had homelessness rates low enough to qualify.

Applying for Funds

Applying for homeless assistance funding would work similarly to the way it does now. Applicants organize into Continuums of Care and submit a joint application to HUD. The entire application is scored and projects are funded in the order that they were prioritized in the application.

Changes would include the following:

- The entity that applies for funding would be known as a Collaborative Applicant.
- The selection criteria would be modified as shown below under the heading "Selection Criteria/Incentives/Set Asides."
- Collaborative Applicants could apply directly to HUD for funding, receive all of the funding designated for the community, and then sub-grant funds to all the project sponsors in the community. Collaborative Applicants that choose to perform this task would be known as a "Unified Funding Agency." A Collaborative Applicant can become a Unified Funding Agency one of two ways. 1) The collaborative applicant could apply to HUD for that status, or 2) HUD could make the designation if they found that the Collaborative Applicant has the capacity, that HUD and the Collaborative Applicant agree on what technical assistance would be needed, and that the designation would benefit the community.
- Continuums that are entirely rural or are in rural states (which would include Alaska, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, and Wyoming) could apply under a different set of criteria (see Rural Program).

Responsibilities of the Collaborative Applicant

The Collaborative Applicant would submit a consolidated application to HUD.

Collaborative Applicants would be eligible to receive 3 percent of their community's funding for administrative costs. If the Collaborative Applicant is also a Unified Funding Agency, they could receive 6 percent.

A Collaborative Applicant could designate another entity to help them apply for and receive grants and perform other administrative duties.

Collaborative Applicants would be responsible for ensuring that their community is participating in HMIS.

Continuum of Care Program

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

Rehousing services would be explicitly added as an eligible activity, including housing search, mediation or outreach to property owners, credit repair, providing 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 would be redefined to include service coordination.

Project sponsors could 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 with future appropriations.

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

Reasonable amounts could be used for staff training.

Permanent Housing Rental Assistance would continue to be administered by PHAs or government agencies.

Incentives, Selection Criteria, and Set Asides

Thirty percent of funding would be for new permanent housing for individuals with a disabling condition or families with an adult member who has a disabling condition. The requirement would not apply to each individual Continuum, only nationally (for example, some Communities could use 25 percent if others used 35 percent). There is a provision that would reduce the 30 percent set aside to ensure that there is always funding available for new projects that are not permanent housing.

At least 10 percent of funding would have to be for permanent housing activities for homeless families, which could include families with or without a member with a disability. This requirement would overlap 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.)

HUD would be required to provide incentives for strategies that are proven to reduce homelessness. The strategies would include rapid rehousing programs for homeless families and permanent supportive housing programs for individuals and families that experience chronic homelessness.

HUD could add additional proven strategies if there is research to support the strategies and after a period of public comment.

The selection criteria would include the following factors:

- Performance: The previous performance of the community, including reductions in the number of homeless people, reductions in the length of time they are homeless, reductions in recidivism, thoroughness in reaching homeless people, increases in jobs and income, and reductions in the number of people who become homeless.
- Plans: The community's plan to reduce homelessness for all groups of homeless people (families with children, unaccompanied youth, veterans, people with disabilities), their plan to address discharge planning, family reunification and other efforts.
- The extent to which communities are upholding the civil rights of homeless people by ensuring the educational rights of children and reducing criminalization.
- Other factors: methodology for setting priorities, knowledge of homelessness in the community, gaps analysis, leveraging, coordination, access to public benefits, consideration of a wide range of viewpoints, and other factors HUD determines are important.

Rural Program

Continuums that are entirely rural or are in rural states could apply under a simplified set of criteria. Their application would include a description of who lives in the worst housing conditions in the community, and their programs could serve people who are homeless or in the worst housing situations. The only exceptions are transitional housing, permanent housing, and construction, rehabilitation, or leasing of space to provide supportive services, all of which could only serve people who are homeless.

Rural applicants would be scored only in comparison to other rural applicants, which should make them more competitive.

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

A Continuum of Care would not be allowed to divide itself to take advantage of the rural program.

The eligible activities for the rural program would 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
- Operation costs
- Rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable
- Support services
- 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 would be 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;
- Other HUD determined criteria.

Match

Continuums of Care would have to provide a match equal to 25 percent of the community's total grant. The match would be applied community-wide, not project by project. Grants that had previously had no match requirement (e.g. SHP leasing grants) would not have to be matched. The match could be cash or in-kind when documented by a Memorandum of Understanding.

The match requirements would be the same for rural areas.

High Performing Communities

Communities that are high performing, which would mean they have low levels of homelessness, could use as much funding as they decide for prevention and rehousing assistance to homeless and

at risk households. To achieve designation as a high performing community, a Collaborative Applicant would have 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, they used that designation well.

Permanent Housing Renewals

Funding for renewals of permanent housing operating costs and permanent housing rental assistance would be separately accounted for from the rest of HUD McKinney-Vento funding. The draft Manager's Amendment provides two options—funding from a new spending account or funding from the project based Section 8 program, provided that there is enough funding for all Section 8 renewals. Both accounts would operate in roughly the same way, with permanent housing renewals being funded non-competitively for one year at a time. Project Sponsors could request up to 15 year contracts for project based rental assistance that would be subject to annual appropriations.

Family Homelessness Research

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

Criminalization

A Collaborative Applicant would have to certify whether the state and local governments in their area are criminalizing homelessness, which would mean: "enforcement of any laws or policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, or that result in the destruction of a homeless persons' property without due process, or through the selective enforcement of laws or policies against homeless persons."

If a Collaborative Applicant certifies that a jurisdiction in their area is criminalizing homelessness, then HUD would reduce that jurisdiction's ESG funding by 2.5 percent, which would be half of the portion that a jurisdiction could use for administrative expenses, and instead award that funding to the Continuum of Care.

DV Program Participation in HMIS

Projects that primarily provide victim services to survivors of domestic violence, dating violence, sexual assault, or stalking could not provide personally identifying information to an HMIS. They could 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 would not be allowed to deny admission to families based on the age of their children. There is one exception for transitional housing programs only if they were able to provide comparable services for the family elsewhere, and only if the transitional housing program was implementing a best practice that required that they accept families with children of a specific age.

Other Provisions:

The HEARTH Act would set a goal of ensuring that no family is homeless for more than 30 days.

HUD would have to release the NOFA no more than 3 months after enactment of appropriations. Awards would 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 could grant an extension.

The definition of chronic homelessness would change to include families with children, include Safe Havens, and ignore brief stays in institutional care.

Up to 1 percent of funding could be used for technical assistance.