

June 20, 2010

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street, SW, Room 10276
Washington, DC 204120

Dear Sir/Madam:

The National Association for County Community and Economic Development (NACCED) and the National Community Development Association (NCDA) are pleased to jointly submit the following comments with respect to the proposed rule defining “homeless” under the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH). NACCED is a national, non-profit association that represents county government practitioners who administer HUD’s affordable housing and community development programs, including homeless assistance programs. NCDA is also a national, non-profit association that represents city and county government practitioners of HUD’s affordable housing and community development programs.

As a general comment, NACCED and NCDA are pleased to see an expanded definition of “homeless,” “homeless individual,” “homeless person,” and “homeless person with a disability,” contained in HEARTH and proposed to be implemented by this rule. This is an important expansion and will provide the opportunity to serve additional persons who are homeless or threatened with becoming homeless at the community level. However, it is important to note that the funding made available under HEARTH *will not be sufficient* to meet the expanded need without the ability for local practitioners to tap homeless funding from the programs of other federal agencies. We encourage HUD to undertake efforts similar to those underway under the Sustainable Communities Initiative, and efforts in the HUD Secretary’s Office aimed at coordinating federal income support programs, to break down silos at the federal level and help achieve the integration of federal funding to meet the pressing needs of the homeless.

The following are our specific comments.

In Section II p.20542 – HUD states that it is considering repeating regulatory text & definitions in the sections for each program [the new Emergency Solutions Grant program, the Continuum of Care program, and the Rural Housing Stability program], rather than having to cross reference to one regulatory text section and welcomes public comment on this. NACCED and NCDA support having the complete regulatory text for and within each program; it is much more user friendly for our members.

In Section II p. 20542 with respect to the four broad categories of homeless, NACCED and NCDA recommend that HUD permit local governments or Continuums of Care to create priorities or preferences within the eligible categories. These priorities or preferences could be based on HUD or local provider-driven data including the number of homeless households in the jurisdiction, local housing cost compared to Area Median Income, and state or local statutory

requirements that pertain to who and who cannot be served. This would help ensure that those with the greatest needs are first to be served.

In Section II p. 20543 there is provided a third case in which the imminent loss of a nighttime residence may be evidenced to qualify as homeless i.e. when the individual or family is no longer permitted to stay by the owner or renter of housing with whom the individual or family is staying. This situation often accounts for doubled-up households that are multi-generational families where the secondary tenant (son or daughter) can move out and obtain a letter from the mother/father that would permit the tenant to be considered homeless and eligible for HEARTH's benefits even though the housing they were occupying was considered safe and appropriate. NACCED and NCDA recommend that the rule permit such individuals to be given lower priority in terms of eligibility for HEARTH funding than those who are vacating housing that is unsafe or unhealthy, or they are persons fleeing from domestic violence.

In Section II p. 20543 NACCED and NCDA recommend removing language requiring verification from the host family when a household is doubled up. Host families will often not provide verification because allowing others to double up in their home may violate their lease. In addition, requiring a caseworker to contact the host family may result in the homeless family being asked to move out immediately potentially putting that family on the street.

In Section II p.20542 NACCED and NCDA support the change in the standard for "temporarily resided" from 30 days to 90 days, for purposes of qualification of a person who was homeless before entering an institution and "temporarily resided" in the institution. We recommend that "institution" be defined to include all possibilities, including health, mental health and chemical dependency institutions and jails/prisons.

In Section II p.20543 NACCED and NCDA believe the definition of "persistent instability", proposed as "three or moves over a 90 day period immediately prior to applying for homeless assistance" is too compact a period of time. Instead, we recommend that it be defined as "three or more moves within a 180 day period," which we believe is more realistic.

In Section II p. 20543 NACCED and NCDA recommend that language be included with respect to victims of domestic violence to cover situations where the health and safety of children are jeopardized. Without this language situations could exist where children are occupying housing that is unheated, contains dangerous physical conditions, or contains other health hazards.

In Section II p. 20544 with respect to self-certification as to homeless status, NACCED and NCDA urge the Department to develop an approved form containing specific language for the certification

The proposed rule raises several other questions that NACCED and NCDA urge be addressed in the final rule.

Please provide a clearer definition of what is a "chronically homeless family." Is it more than one person, such as a couple, or must there be children included to qualify?

The definition of “families with a disability” needs clarification: does the person with the disability need to be the head of household or can it be any member within the family (spouse, child)?

Part 577 – Emergency Solutions Grant Program

577.2 Definitions

p.20545 2(i) – NACCED and NCDA support the addition of prevention to the definition of homeless i.e. – “the primary nighttime residence will be lost within 14 days of the application for homeless assistance.”

p.20545 3(iii) – NACCED and NCDA recommend that “childhood abuse” be defined. We further recommend that “history of incarceration” should be expanded to include “history of incarceration or detention”

577.3 Recordkeeping Requirements

3(i)(C) – NACCED and NCDA agree that an oral statement that a household will lose its housing within 14 days should be followed up with a signed self-certification.

4(iii) - NACCED and NCDA recommend that disability confirmation should be consistent with the Fair Housing Act and allow for confirmation from an appropriate professional rather than solely a “medical professional” as there are professional counselors who are appropriate and qualified to confirm a disability.

NACCED and NCDA recommend further clarification as to the following possible scenario under HEARTH.

Can an individual currently residing in a permanent supportive housing complex for chronically homeless individuals, who is not thriving or doing well, be moved to a different permanent supportive housing complex for chronically homeless individuals and still be considered chronically homeless? Technically this person would not be considered homeless. However, it would be in the client’s best interest to make this move. The need for such a move would have to be based on a determination made by the complex management or client case manager. NACCED and NCDA recommend that such a change be permitted.

Thank you for your responsiveness to our recommendations.

Sincerely,

National Association for County Community and Economic Development
National Community Development Association