

# Homeless Assistance Reauthorization

## National Policy Update April 2009

### Summary of the HEARTH Act S. 808/H.R. 1877

A bill to reauthorize HUD's McKinney-Vento Homeless Assistance programs was introduced in the U.S. House and Senate on April 2, 2009. 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. The House and Senate bills are nearly identical to a version that passed the House last year (H.R. 7221), which itself was a compromise between a bill that passed the House Financial Services Committee in July 2008, and one that passed the Senate Banking Committee in September 2007.

#### 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 House Members introduced identical versions of a McKinney-Vento reauthorization bill. It would make numerous changes to HUD's homeless assistance programs:

- Homelessness prevention would be significantly expanded.
- New incentives would place more emphasis on rapid rehousing, especially for homeless families.

- The existing emphasis on creating permanent supportive housing for people experiencing chronic homelessness would continue, although families could also be considered chronically homeless.
- Rural communities would 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) would be distributed by the same formula to the same jurisdictions as it is now. However, there would be significant changes in the amount of funding and how that funding could be used.

- ESG would be renamed the "Emergency Solutions Grant," signifying its shift to funding homelessness prevention and rehousing as well as emergency shelter.
- Eligible activities would include the traditional shelter and outreach activities of the current ESG program, but would also include more prevention and rehousing 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 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 Rehousing Program (HPRP) that is being operated by HUD as part of the American Recovery and Reinvestment Act.
- Prevention and rehousing activities could 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 could also be served with prevention or rehousing assistance.
- Funding would increase to 20 percent of the amount available for homeless assistance. This would be a significant increase over the existing allocation for ESG.
- At least 40 percent of ESG funds would be dedicated to prevention and rehousing activities, although there is a hold-harmless provision that ensures that ESG grantees would not have to reduce funding for traditional shelter and outreach activities. In most communities, the amount of funding for emergency shelter and outreach would remain similar to current levels, but there would be much more funding for prevention and rehousing.
- The maximum allowance for Administrative expenses would rise from 5 percent to 7.5 percent.

## **Definition of Homelessness**

The bill would modify the definition of homelessness and also allow 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 would add 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 their 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 could use up to 10 percent of their 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—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 percent of CoCs, mostly rural and suburban, had homelessness rates below 0.1 percent.

## **Applying for Funds**

The process of applying for homeless assistance funding would be similar to the current process. Applicants in a community would continue to organize into a Continuum of Care and submit a joint application to HUD. The entire application would be scored, and projects would be 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 focus more on actual performance and would include incentives for rapid rehousing 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 could apply 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. A Collaborative Applicant that performed this role would be known as a "Unified Funding Agency." A Collaborative Applicant could become a Unified Funding Agency in one of two ways: 1) The collaborative applicant could apply to HUD for that status, or 2) HUD could make the designation if it found 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 would have 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) could 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 could not apply under the rural program.

### **Responsibilities of the Collaborative Applicant**

A Collaborative Applicant would submit a consolidated application to HUD and have other responsibilities and benefits.

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

Rehousing services would be 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 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 for 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 could only be administered by PHAs or government agencies.

### **Incentives, Selection Criteria, and Set Asides**

HUD would be required to provide incentives for strategies that are proven to reduce homelessness. These 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. A community that has fully implemented a proven strategy could apply for the incentive and use it for any other eligible activity, including the prevention and rehousing activities allowed under the new ESG program. The amount and specific nature of the incentives is not spelled out in the legislation and would be determined by HUD.

30 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).

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.)

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

The selection criteria would 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 would also include 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 would be 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 would look at 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 individuals projects 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 at risk of homelessness.

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

Rural continuums would be defined as those that have no metropolitan statistical areas, or that have only rural counties within metropolitan statistical areas. A Continuum of Care would 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 could be used to serve people who are homeless or at risk of homelessness, and the eligible activities 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;
- 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 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. 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 applicants.

### **High Performing Communities**

Communities that are high performing, which would mean they have low levels of homelessness, could use as much funding as they want 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, 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 would come from either the appropriations account for HUD's Homeless Assistance Grants or the account for the Project-Based Section 8 program. Permanent housing renewals would be funded non-competitively for one year at a time. Project Sponsors could, if they chose, 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.

### **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 it accept families with children of a specific age.



## **Authorization**

For fiscal year 2010, \$2.2 billion would 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 would also be reauthorized with several changes:

- Added to the council would be 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 would be required to develop a National Strategic Plan to End Homelessness and update it annually.
- Added to the duties of the council would be 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 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, and ignore brief stays in institutional care.
- Up to 1 percent of funding could be used for technical assistance.
- Most of the provisions of the HEARTH Act would go into effect 18 months after it passes.
- The Government Accountability Office (GAO) would be required to perform a study of rural homelessness and a study of the appropriate administrative fee for the Emergency Solutions Grant.