



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

March 29, 2022

Marcia L. Fudge
Secretary
451 7th Street, S.W.
Washington, DC 20410

Re: Critical and Immediate Actions to Address Barriers to PHA Implementation of the Mainstream Voucher Program

Dear Secretary Fudge:

The Consortium of Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration, and inclusion of children and adults with disabilities in all aspects of society, free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. The Housing Task Force (HTF) of CCD focuses on ensuring accessible, affordable, equitable housing is available for all people with disabilities in communities of their own choosing.

Before the pandemic, and as we continue to combat COVID19, people with disabilities remain at outsized risk of institutionalization, homelessness and housing insecurity. Earlier this month, the Kaiser Family Foundation reported that “the COVID-19 pandemic has taken a heavy toll on people in nursing homes, with those in long-term care facilities accounting for a disproportionate share of all deaths attributable to COVID-19 to date”¹.

Congress provided HUD with the Mainstream voucher program specifically to address the needs of people with disabilities, especially those living in institutional and segregated settings. The HTF has seen how creatively HUD has used the Emergency Housing Voucher (EHV) program to help people – including those with disabilities – living on the streets, in shelters or places not meant for human habitation secure housing. We urge you to adopt this type of creativity and flexibility for Mainstream vouchers.

As illustrated in the chart below, the most current data available on HUD’s Housing Choice Voucher (HCV) Dashboard indicates that as of November 2021, the Mainstream vouchers have a utilization rate of only 66.55% and the NonElderly Disabled vouchers have a utilization rate of 86.70%. The CCD HTF urges HUD to adopt the specific quantitative goals for December 2022 and 2023 highlighted in yellow below.

¹ <https://www.kff.org/coronavirus-covid-19/issue-brief/state-covid-19-data-and-policy-actions/#longtermcare>.
<https://www.kff.org/medicaid/issue-brief/covid-19-vaccine-access-for-people-with-disabilities/>

	As Of November 2021 ²	HUD Goal for 12/22	HUD Goal for 12/23
Mainstream vouchers	66.55%	80%	95%
NED vouchers	86.70%	90%	95%

The following are CCD HTF recommendations to address barriers that are impacting Mainstream voucher utilization.

Need to Adjust Referral and Waiting List Practices

Barrier

Many PHAs are not able to identify persons on their waiting lists that may meet the Mainstream voucher eligibility requirements such as “disability” or preferences such as “exiting institutions” because their HCV application does not request this information. As result, many PHAs must conduct time-consuming waiting list updates, made even more time intensive because of COVID-19. CCD discussions with PHAs, NAHRO and NAEH have indicated this is a significant barrier to speedy program implementation. Addressing waiting list barriers must be a HUD priority.

HUD guidance (e.g., PIH Notice 2013-15) makes it relatively easy for PHAs to accept referrals of people experiencing homelessness **directly** from homeless providers or from a Continuum of Care’s Coordinated Entry System (CES). In contrast, HUD makes it relatively difficult for PHAs to establish parallel processes for people living in congregate or institutional settings. PIH Notice 2012-31, for example, states, “PHAs cannot restrict the [existing institutions] preference to those referred or approved by a single state agency or to persons with specific disabilities or diagnoses unless such a restriction is related to a HUD-approved remedial action.” This requirement is unnecessarily restrictive, requiring significantly more control by HUD than in most aspects of HCV operations, and is one reason for PHAs experiencing difficulty serving people coming from institutions.

Actions Needed

- If a state or local disability-specific agency is willing to certify/sign an affidavit that they will accept and make referrals equitably regardless of disability, they should be able to play the same role the homeless service provider or the CES is allowed under PIH Notice 2013-15. For example, the PHA should be able to provide a preference for referrals of people with disabilities generally or more specifically those exiting congregate facilities or institutions referred by the certifying agency. State or local Money Follows the Person or programs or local cross-disability organizations may be willing to play this role.
- HUD should allow disability-specific preferences without HUD approval where there is an active settlement agreement, court order, or consent decree, or in response to a public entity’s documented, voluntary affirmative *Olmstead* planning and implementation efforts. Notice 2012-31 currently requires HUD approval in these situations. HUD approval is unnecessarily cumbersome. By allowing these to occur without HUD prior approval, we anticipate increased use of these preferences. This approach, rather than being in conflict with the Fair Housing Act, will actually advance fair housing by addressing documented discrimination against people of disabilities.
- Provide guidance that PHAs may provide a “move-on” preference for people exiting congregate residential facilities or institutions similar to the move-on preference for people leaving permanent supportive housing provided under PIH Notice 2013-15 and the EHV Notice 2021-15.

² We note that this data is very outdated and urge HUD to make current data available as they do for the Emergency Housing Voucher program.

HUD should provide this guidance immediately through emergency guidance or FAQs. Unfortunately, PHAs have already missed the opportunity to take advantage of the COVID-19 flexibilities such as the flexibilities related to how the waiting list and public are notified of changes to admissions preferences (see PIH Notice 2020-33). HUD should continue to extend these flexibilities to the Mainstream vouchers.

Generally, as HUD moves forward with its programs, it should treat people with disabilities exiting institutions or at risk of institutionalization in the same manner – providing equitable access to the HCV program – as people who are experiencing or at risk of homelessness.

Need for Accessible Units

Barrier

Some of those persons with disabilities exiting institutions will require accessible units. Research related to the Non Elderly Disabled vouchers³ and the Money Follows the Person⁴ programs found that identification of accessible units was a barrier for these persons to exit institutions. HUD can help to address this barrier in several ways:

Action Needed

- HUD should issue FAQs or other collaborative guidance with Treasury reminding states and LIHTC developers: (1) of their legal obligation under the FFHAA, ADA and Section 504 of the Rehabilitation Act to ensure new construction and substantially rehabilitated housing developments include the required percentage of accessible units; (2) of their obligation to make reasonable accommodations and modifications for tenants with disabilities; and (3) of their obligation to accept vouchers. Guidance should also direct states and owners to reach out to disability organizations at the state and local level when units are available, especially when they become available for first occupancy.
- HUD should issue similar guidance that should be issued to jurisdictions receiving National Housing Trust Fund, HOME, Community Development Block Grant and new HOME-ARP.

HUD should issue similar guidance to PHAs that intend to use HCV for project-based assistance.

Incentivizing PHAs to Serve People with Greatest Barriers to Housing

Barrier

Helping the most vulnerable people with disabilities exit institutions can be a lengthy process, requiring coordination between locating a unit, for example, and coordinating any needed community-based supports. Synchronizing housing and services is complex and may lead to slower utilization of these vouchers.

Action

CCD urges HUD to incentivize PHAs to serve those exiting institutions by providing financial incentives such as:

- Allow PHAs “hard to house fees” for initial and turnover vouchers.
- Allow PHAs to use Mainstream funds for housing-related fees and services such as security deposits, housing search, and other activities such as those allowable for the EHV program. Landlord incentives are particularly important given the competitive rental market being experienced across the country. To the extent that the

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<https://www.mathematica.org/our-publications-and-findings/publications/nonelderly-disabled-category-2-housing-choice-voucher-program-an-implementation-and-impact-analysis>

⁴ <file:///C:/Users/ls/Documents/Documents/CCD%20Housing%20Task%20Force/MFPfieldreport19.pdf>

current statute prohibits use of funds for this purpose, HUD should ask Congress for language changes in the FY23 Appropriations bill or use another vehicle (e.g. HUD's pool of flexible administrative fees) to allow these uses.

PHA partnerships with service providers

Barrier

NED program research indicates that partnerships between PHAs and service entities are critical to success of special voucher implementation. For an institutional preference, PHAs often are unsure of who to partner with, especially since HUD guidance does not allow referrals to come from a single state or specific local disability agencies (see above). HUD and HHS are already partnering on the Housing and Services Resource Center; these recommendations can build on that foundation.

Actions Needed

- HUD should provide joint guidance with ACL, CMS and SAMHSA regarding community organizations and how to reach them. HUD's MF Housing Office already does something similar, trying to make ensure Section 811 capital advance projects can find service partners if their service partner is no longer viable.
<https://www.hudexchange.info/programs/multifamily-housing/disability/supportive-services-partners/>
- From 2016 to 2019, CMS worked with 19 state Medicaid agencies and their state housing partners to develop public and private partnerships between the Medicaid and housing systems; and to support states in the creation of detailed action plans that foster additional community living opportunities for Medicaid beneficiaries. HUD should build on the relationships developed under the Innovation Accelerator Program as well as utilize the materials to help PHAs, including but not limited to state PHAs, understand what types of supports and services these entities may be able to provide.
<https://www.medicaid.gov/resources-for-states/innovation-accelerator-program/program-areas/promoting-community-integration-through-long-term-services-and-supports/index.html>
- The S.811 Project Rental Assistance (PRA) program also incentivized the development of state level housing and services partnerships. Note that among the 30 current state S.811 PRA grantees, some but not all, are state PHAs. HUD can also build on/utilize these partnerships to ensure that Mainstream vouchers reach people with disabilities facing the greatest barriers to housing and community living.

General guidance on the development of integrated housing for people with disabilities including people who are homeless

Barrier

CCD is concerned that in a rush to expand permanent supportive housing (PSH), including turning hotels and other non-congregate shelters into PSH, communities will develop "mini-institutions." While some 100% PSH properties may be appropriate as communities look to provide a range of housing options for those experiencing homelessness, including people with disabilities, this should not be the primary option available. HUD must prioritize affordable, accessible housing options consistent with the most integrated setting as defined by DOJ.

https://www.ada.gov/olmstead/q&a_olmstead.htm

Action Needed

- HUD must support communities in simultaneously offering people experiencing homelessness non-congregate sheltering and permanent options and developing long-term permanent and permanent supportive housing options that are integrated in the community. Housing options that do not meet CMS’s “[HCBS settings rule](#)” will not be eligible for Medicaid funding for these services. HUD, CMS, ACL and DOJ should assure internal understanding of what constitutes qualities of community-based settings that distinguish them from institutional settings and issue guidance to all of its recipients and grantees including but not limited to PHAs, CoCs, ESG-recipients, state housing agencies, local community development organizations and other recipients of federal housing funds.

In conclusion, we urge HUD to adopt these recommendations in order to provide opportunities for people with disabilities – especially those in institutional or segregated settings – to use the Mainstream vouchers to obtain housing in the community of their choice. The HTF requests a meeting with you, as soon as possible, to discuss these further and how our members can support HUD in this important endeavor.

Sincerely,

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