

San Bernardino Continuum of Care (CoC):

Working Paper to Establish Written Standards for Providing Continuum of Care Assistance

The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH Act): Continuum of Care Program (24 CFR Part 578) describes in § 578.7 Responsibilities of the Continuum of Care, subsection (a) Operate the Continuum of Care (9), the Continuum of Care must:

“In consultation with recipients of Emergency Solutions Grants program funds within the geographic area, establish and consistently follow written standards for providing Continuum of Care assistance.”¹

This subsection also states that at a minimum, written standards must include “policies and procedures for evaluating individuals’ and families’ eligibility for assistance” for:

1. permanent supportive housing;
2. rapid rehousing; and
3. transitional housing.

However, written standards for the San Bernardino CoC will also include:

4. coordinated entry;
5. seasonal shelter;
6. year-round shelter;
7. bridge housing; and
8. homeless prevention.

These written standards will be developed as HUD provides more guidance.

This subsection also states that written standards must also include:

“policies and procedures for determining and prioritizing which eligible individuals and families will receive” transitional housing, rapid rehousing, and permanent supportive housing assistance.

¹ The Interim Rule for the Emergency Solutions Grant Program does not provide information concerning transitional housing beyond the Interim Rule for the HEARTH Act Continuum of Care program because in order for a transitional facility to receive ESG funds, the facility cannot require occupants to sign leases or occupancy agreements whereas CoC funded transitional housing programs must require occupants to sign leases or occupancy agreements.

I. Determining Written Standards for Permanent Supportive Housing

A. Background information

In regards to rapid rehousing, § 578.7 Responsibilities of the Continuum of Care (a) (9) of the HEARTH Act Interim Rule notes that:

In consultation with recipients of Emergency Solutions Grants program funds within the geographic area, establish and consistently follow written standards for providing Continuum of Care assistance. At a minimum, these written standards must include:

- Policies and procedures for evaluating individuals' and families' eligibility for assistance under this part;
- Policies and procedures for determining and prioritizing which eligible individuals and families will receive permanent supportive housing assistance.

Permanent supportive housing is considered permanent housing. HUD's regulatory definition of "permanent housing" states:

"The term 'permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and rapid re-housing."

HUD also states:

"Additionally, in the regulatory definition of "permanent housing," HUD clarifies that to be permanent housing, "the program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause. The lease must be renewable for terms that are a minimum of one month long. HUD has determined that requiring a lease for a term of at least one year that is renewable and terminable only for cause, assists program participants in obtaining stability in housing, even when the rental assistance is temporary. These requirements are consistent with Section 8 requirements."

B. Eligible clients

As stated in the 2014 CoC NOFA under *Beds Dedicated to the Chronically Homeless*

"The total number of permanent supportive housing beds in the CoC's geographic area that are dedicated specifically for use by the chronically homeless, per 24 CFR 578.3, as reported in the CoC's Housing Inventory Count (HIC). For permanent supportive housing beds, when a participant exits the program, the bed must be filled by another chronically homeless participant unless there are no chronically homeless persons located within the CoC's geographic area. This concept only applies to permanent supportive housing projects. (see p. 18)"

Also stated in the 2014 CoC NOFA under *Non-Dedicated Permanent Supportive Housing Beds*

“Permanent supportive housing beds within a CoC’s geographic area that are not currently dedicated specifically for use by the chronically homeless. CoCs and projects are strongly encouraged to prioritize the chronically homeless in non-dedicated permanent supportive housing beds as they become available through turnover. This concept only pertains to permanent supportive housing projects (see p. 19).”

Eligible clients must also meet eligibility criteria as defined in the NOFA under which the program was funded.

C. Prioritizing Permanent Supportive Housing

On July 28, 2014, HUD published Notice: CPD-14-012 “Notice on Prioritizing Persons Experiencing Chronic Homelessness and Other Vulnerable Homeless Persons in Permanent Supportive Housing and Recordkeeping Requirements for Documenting Chronic Homeless Status.”

HUD stated that to “ensure that all PSH beds funded through the CoC Program are used as strategically and effectively as possible, PSH needs to be targeted to serve persons with the highest needs and greatest barriers towards obtaining and maintaining housing on their own—persons experiencing chronic homelessness (see p. 2).”

HUD also stated that “CoCs are strongly encouraged to adopt and incorporate into the CoC’s written standards and coordinated entry system” that are consistent with the order of priority established by HUD in the notice concerning CoC Program-funded Permanent Supportive Housing and Permanent Supportive Housing Beds Not Dedicated or Prioritized for Persons Experiencing Chronic Homelessness (see pages 2 and 3).

Thus, with “adoption by CoCs and incorporation into the CoC’s written standards, **all** recipients of CoC Program-funded PSH must then follow this order of priority, consistent with their current grant agreement, which will result in this intervention being targeted to the persons who need it the most (see p. 3).

HUD’s “Order of Priority in CoC Program-funded Permanent Supportive Housing” is as follows:

- First Priority—Chronically Homeless Individuals and Families with the Longest History of Homelessness and with the Most Severe Service Needs.
- Second Priority—Chronically Homeless Individuals and Families with the Longest History of Homelessness.
- Third Priority—Chronically Homeless Individuals and Families with the Most Severe Service Needs.
- Fourth Priority—All Other Chronically Homeless Individuals and Families.

HUD's "Order of Priority in Permanent Supportive Housing Beds Not Dedicated or Prioritized for Persons Experiencing Chronic Homelessness" is as follows:

- First Priority—Homeless Individuals and Families with a Disability with the Most Severe Service Needs.
- Second Priority—Homeless Individuals and Families with a Disability with a Long Period of Continuous or Episodic Homelessness.
- Third Priority—Homeless Individuals and Families with Disability Coming from Places Not Meant for Human Habitation, Safe Havens, or Emergency Shelters.
- Fourth Priority—Homeless Individuals and Families with a Disability Coming from Transitional Housing.

Details of both sets of order of priority can be found on pages 6 – 10 of the notice.

A glossary of key terms for this notice can be found on pages 3 – 5.

The notice also requires "Recordkeeping Requirements for Documenting Chronic Homeless Status." HUD stated that this notice "establishes recordkeeping requirements for all recipients of CoC Program-funded PSH that are required to document a program participant's status as chronically homeless as defined in 24 CFR 578.3 and in accordance with 24 CFR 578.103. Further, HUD expects that where CoCs have adopted the orders of priority in Section III. of this Notice into their written standards, the CoC as well as recipients of CoC Program-funded PSH, will maintain evidence of implementing these priorities."

A. CoC Records

In addition to the records required in 24 CFR 578.103, it is recommended that the CoC should supplement such records with the following:

1. Evidence of written standards that incorporate the priorities in Section III. of this Notice, as adopted by the CoC;
2. Evidence of a standardized assessment tool;
3. Evidence that the written standards were incorporated into the coordinated entry policies and procedures.

Details for 1 -3 can be found on pages 11 – 12 of the notice.

B. Recipient Recordkeeping Requirements

In addition to the records required in 24 CFR 578.103, recipients of CoC Program-funded PSH that is required by grant agreement to document chronically homeless status of program participants in some or all of its PSH beds must maintain the following records:

1. Written Intake Procedures;

2. Evidence of Chronically Homeless Status
 - a. Evidence of homeless status
 - b. Evidence of the duration of the homelessness:
 - Evidence that the homeless occasion was continuous, for at least one year;
 - Evidence that the household experienced at least four separate homeless occasions over 3 years;
 - Evidence of diagnosis with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in Section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42 U.S.C. 15002), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability.

Details for 1 -2 can be found on pages 11 – 12 of the notice.

D. Written Standards

Written Standard #1: No Designated Length of Stay

- **Program participants are provided housing without a designated length of stay that permits them to live as independently as possible.**

In Program Components and Eligible Costs (Subpart D) of the Preamble of the HEARTH Act (see p. 25) the following is noted:

“Consistent with the definition of permanent housing in section 401 of the McKinney-Vento Act and § 578.3 of this interim rule, the permanent housing component is community-based housing without a designated length of stay that permits formerly homeless individuals and families to live as independently as possible. The interim rule clarifies that Continuum of Care funds may be spent on two types of permanent housing: permanent supportive housing for persons with disabilities (PSH) and rapid rehousing that provides temporary assistance (i.e., rental assistance and/or supportive services) to program participants in a unit that the program participant retains after the assistance ends.”

Written Standard #2: Lease Agreement

- **The program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause. The lease must be renewable for terms that are a minimum of one month long.**

On page 12 of the Preamble of the HEARTH Act Interim Rule,

“HUD clarifies that to be permanent housing, “the program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause.

The lease must be renewable for terms that are a minimum of one month long. HUD has determined that requiring a lease for a term of at least one year that is renewable and terminable only for cause, assists program participants in obtaining stability in housing, even when the rental assistance is temporary. These requirements are consistent with Section 8 requirements.”

Also, § 578.77 Calculating occupancy charges and rent (a) states the following about occupancy agreements:

“(a) Occupancy agreements and leases. Recipients and subrecipients must have signed occupancy agreements or leases (or subleases) with program participants residing in housing.”

Written Standard #3: Restricted Assistance and Disabilities

- **Permanent supportive housing can only provide assistance to individuals with disabilities and families in which one adult or child has a disability.**

§ 578.37 Program components and uses of assistance (a) (1) (i) states that:

“Permanent supportive housing for persons with disabilities (PSH). *PSH can only provide assistance to individuals with disabilities and families in which one adult or child has a disability.* Supportive services designed to meet the needs of the program participants must be made available to the program participants.”

Written Standard #4: Supportive Services

- **Supportive services designed to meet the needs of program participants must be made available to the program participants.**

§ 578.37 Program components and uses of assistance (a) (1) (i) states that:

“Permanent supportive housing for persons with disabilities (PSH). PSH can only provide assistance to individuals with disabilities and families in which one adult or child has a disability. *Supportive services designed to meet the needs of the program participants must be made available to the program participants.*”

Written Standard #5: Duration of Supportive Services Assistance

- **Supportive services to enable program participants to live as independently as possible must be provided throughout the duration of their residence**

§ 578.53 Supportive services (b) (2) states that:

“Permanent supportive housing projects must provide supportive services for the residents to enable them to live as independently as is practicable throughout the duration of their residence in the project.”

Written Standard #6: One Person per Bedroom

- **Two individuals in a shared housing situation must have their own lease and their own bedroom unless the two individuals are presented together as a household**

Information received from HUD Exchange on February 9, 2015 is as follows:

“Under the CoC Program, all housing that is leased with Continuum of Care program funds, or for which rental assistance payments are made with Continuum of Care program funds, must meet the applicable Housing Quality Standards (HQS) under 24 CFR 982.401 of this title, except that 24 CFR 982.401(j) applies only to housing occupied by program participants receiving tenant-based rental assistance.

HQS dictates that, at a minimum, the unit must have a living room, a kitchen, and a bathroom. HQS requirements also dictates that the bathroom must be contained within the unit, afford privacy (usually meaning a door, although no lock is required), and be for the exclusive use of the occupants. Additionally, the unit must have suitable space and equipment to store, prepare, and serve food in a sanitary manner. This includes a requirement for an oven and stove or range, a refrigerator of appropriate size for the family, and a kitchen sink with hot and cold running water. Hot plates are not acceptable substitutes for stoves or ranges. However, a microwave oven may be used in place of a conventional oven, stove, or range if the oven/stove/range are tenant supplied or if microwaves are furnished in both subsidized and unsubsidized units in the building or premises.

The CoC Program also allows for shared housing/roommate situations in projects with leasing or rental assistance funds. **Each household must have the bedroom size that fits their household size. In other words, 2 individuals in a shared housing situation must have their own lease, and their own bedroom. The only situation where 2 people would be sharing one bedroom would be if they presented together as a household.**

For more information about Housing Quality Standards, please refer to Chapter 10 of the HCVP Guidebook:

www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/7420g10GUID.pdf.”

Written Standard #7: Program Income

- **Program income generated from rent and occupancy charges may be collected from program participants and added to funds committed to the project by HUD and used for eligible program activities**

§ 578.97 Program income includes the following:

“(a) Defined. Program income is the income received by the recipient or subrecipient directly generated by a grant-supported activity.

(b) Use. Program income earned during the grant term shall be retained by the recipient, and added to funds committed to the project by HUD and the recipient, used for eligible activities in accordance with the requirements of this part. Costs incident to the generation of program income may be deducted from gross income to calculate program income, provided that the costs have not been charged to grant funds.

(c) Rent and occupancy charges. Rents and occupancy charges collected from program participants are program income. In addition, rents and occupancy charges collected from residents of transitional housing may be reserved, in whole or in part, to assist the residents from whom they are collected to move to permanent housing.”

Also, § 578.49 Leasing (b) (7) states the following about program income:

“Program income. Occupancy charges and rent collected from program participants are program income and may be used as provided under § 578.97.”

Written Standard #8: Calculating Occupancy Charges and Rent

- **if occupancy charges are imposed, they may not exceed the highest of: 1) 30 percent of the family’s monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child-care expenses); 2) 10 percent of the family’s monthly income; or 3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family’s actual housing costs) is specifically designated by the agency to meet the family’s housing costs, the portion of the payments that is designated for housing costs.**

§ 578.77 Calculating occupancy charges and rent (b) (1) (2) (3) notes the following about occupancy agreements:

“(b) Calculation of occupancy charges. Recipients and subrecipients are not required to impose occupancy charges on program participants as a condition of residing in the housing. However, if occupancy charges are imposed, they may not exceed the highest of:

(1) 30 percent of the family’s monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child-care expenses);

(2) 10 percent of the family’s monthly income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family's actual housing costs) is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated for housing costs."

Written Standard #9: Examining Program Participant's Initial Income

- **a program participant's initial income must be examined at least annually to determine the amount of the contribution toward rent payable by the program participant and adjustments to a program participant's contribution toward the rental payment must be made as changes in income are identified.**

§578.77 Calculating occupancy charges and rent (c)(2) states that:

"Recipients or subrecipients must examine a program participant's income initially, and at least annually thereafter, to determine the amount of the contribution toward rent payable by the program participant. Adjustments to a program participant's contribution toward the rental payment must be made as changes in income are identified."

§578.103 Recordkeeping requirements (7) (i) (ii) states that the recipient or subrecipient must keep records for each program participant that document:

"(i) The services and assistance provided to that program participant, including evidence that the recipient or subrecipient has conducted an annual assessment of services for those program participants that remain in the program for more than a year and adjusted the service package accordingly, and including case management services as provided in § 578.37(a)(1)(ii)(F); and

(ii) Where applicable, compliance with the termination of assistance requirement in § 578.91."

Written Standard #10: Verifying Program Participant's Initial Income

- **each program participant must agree to supply the information or documentation necessary to verify the program participant's income.**

§578.77 Calculating occupancy charges and rent (c)(3) states that:

"As a condition of participation in the program, each program participant must agree to supply the information or documentation necessary to verify the program participant's income. Program participants must provide the recipient or subrecipient with information at any time regarding changes in income or other circumstances that may result in changes to a program participant's contribution toward the rental payment."

§578.103 Recordkeeping requirements (6) (i) (ii) (iii) and (iv) states that the following documentation of annual income must be kept by recipient or subrecipient:

“(i) Income evaluation form specified by HUD and completed by the recipient or subrecipient; and

(ii) Source documents (e.g., most recent wage statement, unemployment compensation statement, public benefits statement, bank statement) for the assets held by the program participant and income received before the date of the evaluation;

(iii) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient’s or subrecipient’s intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period; or

(iv) To the extent that source documents and third-party verification are unobtainable, the written certification by the program participant of the amount of income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.”

Written Standard #11: Recalculating Occupancy Charges and Rent

- **if there is a change in family composition (e.g., birth of a child) or a decrease in the resident’s income during the year, the resident may request an interim reexamination, and the occupancy charge will be adjusted accordingly.**

§ 578.77 Calculating occupancy charges and rent (b) (4) notes the following about recalculating occupancy charges and rent:

“(4) Income. Income must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a). Recipients and subrecipients must examine a program participant’s income initially, and if there is a change in family composition (e.g., birth of a child) or a decrease in the resident’s income during the year, the resident may request an interim reexamination, and the occupancy charge will be adjusted accordingly.”

Written Standard #12: Supportive Services Agreement

- **program participants may be required to take part in supportive services that are not disability-related services (including substance abuse treatment services) provided through the project as a condition of continued participation in the program. However, HUD tends to believe that these kinds of requirements can be barriers and should be rare and minimal if used as all.**

§ 578.75 General operations (h) states that:

“Recipients and subrecipients may require the program participants to take part in supportive services that are not disability-related services provided through the project as a condition of continued participation in the program. Examples of disability-related services include, but are not limited to, mental health services, outpatient health services, and provision of medication, which are provided to a person with a disability to address a condition caused by the disability. Notwithstanding this provision, if the purpose of the project is to provide substance abuse treatment services, recipients and subrecipients may require program participants to take part in such services as a condition of continued participation in the program.”

From “HOUSING FIRST IN PERMANENT SUPPORTIVE HOUSING” (see www.hudexchange.info/resources/documents/Housing-First-Permanent-Supportive-Housing-Brief.pdf)

“Supportive services are voluntary, but can and should be used to persistently engage tenants to ensure housing stability - Supportive services are proactively offered to help tenants achieve and maintain housing stability, but tenants are not required to participate in services as a condition of tenancy. Techniques such as harm reduction and motivational interviewing may be useful. Harm reduction techniques can confront and mitigate the harms of drug and alcohol use through non-judgmental communication while motivational interviewing may be useful in helping households acquire and utilize new skills and information.”

Written Standard #13: Termination of Assistance

- **Assistance may be terminated to a program participant who violates program requirements or conditions of occupancy by providing a formal process that recognizes the due process of law.**

On page 37 of the Preamble of the HEARTH Act, the following is stated concerning termination of assistance:

“The interim rule provides that a recipient may terminate assistance to a participant who violates program requirements or conditions of occupancy. The recipient must provide a formal process that recognizes the due process of law. Recipients may resume assistance to a participant whose assistance has been terminated.

Recipients that are providing permanent supportive housing for hard-to-house populations of homeless persons must exercise judgment and examine all circumstances in determining whether termination is appropriate. Under this interim rule, HUD has determined that a participant’s assistance should be terminated only in the most severe cases. HUD is carrying over this requirement from the Shelter Plus Care program.”

II. Determining Written Standards for Rapid Rehousing

A. Background information

In regards to rapid rehousing, § 578.7 Responsibilities of the Continuum of Care (a) (9) of the HEARTH Act Interim Rule notes that:

In consultation with recipients of Emergency Solutions Grants program funds within the geographic area, establish and consistently follow written standards for providing Continuum of Care assistance. At a minimum, these written standards must include:

- Policies and procedures for evaluating individuals' and families' eligibility for assistance under this part;
- Policies and procedures for determining and prioritizing which eligible individuals and families will receive rapid rehousing assistance;
- Standards for determining what percentage or amount of rent each program participant must pay while receiving rapid rehousing assistance;

Rapid rehousing is considered permanent housing. HUD's regulatory definition of "permanent housing" states:

"The term 'permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and rapid re-housing."

HUD also states:

"Additionally, in the regulatory definition of "permanent housing," HUD clarifies that to be permanent housing, "the program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause. The lease must be renewable for terms that are a minimum of one month long. HUD has determined that requiring a lease for a term of at least one year that is renewable and terminable only for cause, assists program participants in obtaining stability in housing, even when the rental assistance is temporary. These requirements are consistent with Section 8 requirements."

Types of rapid rehousing assistance include:

- Rental assistance;
- Case management;
- Supportive services;
- Security deposits.

B. Eligible Clients

Eligible clients must meet HUD's Category 1 definition of homelessness which is:

Individuals and families who lack a fixed, regular, and adequate nighttime residence:

- An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, etc.
- An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low income individuals); or
- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

For information on HUD's other homeless categories, eligible for other CoC funds, visit: www.onecpd.info/resources/documents/HEARTH_HomelessDefinition_FinalRule.pdf

Eligible clients must also meet eligibility criteria as defined in the NOFA under which the program was funded.

C. Prioritizing Rapid Rehousing

Recently, HUD provided guidance for rapid rehousing in terms of prioritizing subpopulations. HUD noted in a SNAPS In Focus: Rapid Re-Housing As a Model and Best Practice, August 6, 2014, that:

“Rapid re-housing can be effective for many populations, such as families with children, youth aging out of foster care, domestic violence survivors, single adults, and veterans, but should be targeted to those households that would not be able to get out of homelessness without the assistance. It is particularly a key strategy for achieving the Opening Doors goal of ending family, youth, and child homelessness by 2020.

Rapid re-housing should prioritize people with more challenges, including those with no income, poor employment prospects, troubled rental histories, and criminal records. Providers should link participants with community resources that will help them achieve longer-term stability and well-being. Now is the time for communities to be working together to establish written standards for administering rapid re-housing and thinking strategically about how this type of assistance will be used most effectively within the CoC.”

Recently, HUD also noted on www.hudexchange.info/resources/documents/Rapid-Re-Housing-Brief.pdf that:

“Rapid re-housing is an effective intervention for many different types of households experiencing homelessness, including those with no income, with disabilities, and with poor rental history. The majority of households experiencing homelessness are good candidates for rapid re-housing. The only exceptions are households that can exit homelessness with little or no assistance, those who experience chronic homelessness and who need permanent supportive housing, and households who are seeking a therapeutic residential environment, including those recovering from addiction.”

Thus, the San Bernardino CoC will prioritize the following subpopulations:

- families with children;
- youth aging out of foster care;
- domestic violence survivors;
- single adults;
- and veterans

that can exit homelessness with little or no assistance, those who experience chronic homelessness and who need permanent supportive housing, and households who are seeking a therapeutic residential environment, including those recovering from addiction.

D. Written Standards

Written Standard #1: Lease Agreement

- **The program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause. The lease must be renewable for terms that are a minimum of one month long.**

On page 12 of the Preamble of the HEARTH Act Interim Rule,

“HUD clarifies that to be permanent housing, “the program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause. The lease must be renewable for terms that are a minimum of one month long. HUD has determined that requiring a lease for a term of at least one year that is renewable and terminable only for cause, assists program participants in obtaining stability in housing, even when the rental assistance is temporary. These requirements are consistent with Section 8 requirements.”

Written Standard #2: Rental Assistance

- **Program participants may receive short-term (up to 3 months) and/or medium-term (for 3 to 24 months) tenant-based rental assistance**

§ 578.37 Program components and uses of assistance (a) (1) (ii) states that:

“Continuum of Care funds may provide supportive services, as set forth in § 578.53, and/or **short-term (up to 3 months) and/or medium-term (for 3 to 24 months) tenant-based rental assistance**, as set forth in § 578.51(c), as necessary to help a homeless individual or family, with or without disabilities, move as quickly as possible into permanent housing and achieve stability in that housing.”

Written Standard #3: Amount of Rental Assistance

- **Standards for determining the share of rent and utilities costs that each program participant must pay, if any, will be based on the following guidelines:**
 - **The maximum amount of rent that a participant will pay can be up to 100% of the rental amount;**
 - **The maximum percentage of income paid by participants towards rent at program completion shall be no more than 50%. However, in certain circumstances, on a case-by-case basis, there may be participants whose rental share may exceed 50% of the rent based on their financial circumstances. In general, the goal will be that participants pay generally no more than 50% of their income in rent;**
 - **100% of the cost of rent in rental assistance may be provided to program participants. However to maximize the number of households that can be served with rapid re-housing resources, it is expected that the level of need will be based on the goal of providing only what is necessary for each household to be stably housed for the long term;**
 - **Rental assistance cannot be provided for a unit unless the rent for that unit is at or below the Fair Market Rent limit, established by HUD;**
 - **The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.**

§ 578.37 Program components and uses of assistance (a) (1) (ii) (F) states that a Continuum of Care:

“May set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive rental assistance, and/or a maximum number of times that a program participant may receive rental assistance. The recipient or subrecipient may also require program participants to share in the costs of rent. For the purposes of calculating rent

for rapid rehousing, the rent shall equal the sum of the total monthly rent for the unit and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.”

Written Standard #4: Duration of Assistance

- **Program participants may receive up to 24 months of rental assistance. However, it is expected that program participants will only receive the level of assistance necessary to be stably housed for the long-term.**

§ 578.37 Program components and uses of assistance (a) (1) (ii) states that:

“Continuum of Care funds may provide supportive services, as set forth in § 578.53, and/or short-term (up to 3 months) and/or medium-term (for 3 to 24 months) tenant-based rental assistance, as set forth in § 578.51(c), as necessary to help a homeless individual or family, with or without disabilities, move as quickly as possible into permanent housing and achieve stability in that housing.”

Written Standard #5: Security Deposits including Last Month’s Rent

- **Program participants may receive funds for security deposits in an amount not to exceed 2 months of rent.**

§ 578.51 Rental assistance (a) (2) states that:

“Grant funds may be used for security deposits in an amount not to exceed 2 months of rent. An advance payment of the last month’s rent may be provided to the landlord, in addition to the security deposit and payment of first month’s rent.”

Written Standard #6: Receiving Rental Assistance through Other Sources

- **Rental assistance cannot be provided to a program participant who is already receiving rental assistance, or living in a housing unit receiving rental assistance or operating assistance through other federal, State, or local sources.**

§ 578.51 Rental assistance (a) Use states that:

“Grant funds may be used for rental assistance for homeless individuals and families. Rental assistance cannot be provided to a program participant who is already receiving rental assistance, or living in a housing unit receiving rental assistance or operating assistance through other federal, State, or local sources.”

Written Standard #7: Case Management

- Program participants must meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability.

§ 578.37 Program components and uses of assistance (a) (1) (ii) (F) states the following requirement:

“Require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability. The project is exempt from this requirement if the Violence Against Women Act of 1994 (42 U.S.C. 13925 *et seq.*) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*) prohibits the recipient carrying out the project from making its housing conditional on the participant’s acceptance of services.”

Written Standard #8: Supportive Services

- **Program participants may receive supportive services as set forth in § 578.53 (see Appendix A)**

§ 578.37 Program components and uses of assistance (a) (1) (ii) states that:

“Continuum of Care funds may provide **supportive services**, as set forth in § 578.53, and/or short-term (up to 3 months) and/or medium-term (for 3 to 24 months) tenant-based rental assistance, as set forth in § 578.51(c), as necessary to help a homeless individual or family, with or without disabilities, move as quickly as possible into permanent housing and achieve stability in that housing.”

Written Standard #9: Duration of Supportive Services

- **Program participants may receive supportive services for no longer than 6 months after rental assistance stops**

§ 578.37 Program components and uses of assistance (a) (1) (ii) (F) states that the Continuum of Care “May provide supportive services for no longer than 6 months after rental assistance stops.”

Written Standard #10: Re-evaluation

- **Program participants must be re-evaluated, not less than once annually, in order to determine whether program participants lack sufficient resources and support networks necessary to retain housing without Continuum of Care assistance and the types and amounts of assistance that the program participant needs to retain housing.**

§ 578.37 Program components and uses of assistance (a) (1) (ii) (E) states that the Continuum of Care:

“Must re-evaluate, not less than once annually, that the program participant lacks sufficient resources and support networks necessary to retain housing without Continuum of Care assistance and the types and amounts of assistance that the program participant needs to retain housing. The recipient or subrecipient may require each program participant receiving assistance to notify the recipient or subrecipient of changes in the program participant’s income or other circumstances (e.g., changes in household composition) that affect the program participant's need for assistance. When notified of a relevant change, the recipient or subrecipient must reevaluate the program participant’s eligibility and the amount and types of assistance that the program participant needs.”

III. Determining Written Standards for Transitional Housing

A. Background Information

This section proposes written standards for transitional housing based upon information provided in the HEARTH Act.

Under § 578.3 Definitions of the HEARTH Act, the following is stated:

“Transitional housing means housing, where all program participants have signed a lease or occupancy agreement, the purpose of which is to facilitate the movement of homeless individuals and families into permanent housing within 24 months or such longer period as HUD determines necessary. The program participant must have a lease or occupancy agreement for a term of at least one month that ends in 24 months and cannot be extended.”

B. Eligible Clients

Eligible clients must meet HUD’s Category 1 definition of homelessness which is:

Individuals and families who lack a fixed, regular, and adequate nighttime residence:

- An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, etc.
- An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low income individuals); or

- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

For information on HUD’s other homeless categories, eligible for other CoC funds, visit: www.onecpd.info/resources/documents/HEARTH_HomelessDefinition_FinalRule.pdf

Eligible clients must also meet eligibility criteria as defined in the NOFA under which the program was funded.

C. Prioritizing Transitional Housing

Domestic violence survivors and youth ages 18 – 24 will be prioritized for transitional housing if they are not assessed as chronically homeless.² All chronically homeless individuals and families will not be served through transitional housing.³ Such households will be served by permanent supportive housing through a Housing First approach. Also, eligible single veterans and veterans with families, will be served by permanent supportive housing through the HUD VASH voucher program or the Supportive Services for Veteran Families program.

D. Written Standards

Written Standard #1:

The program participant must have a lease or occupancy agreement for a term of at least one month that ends in 24 months and cannot be extended” unless a “homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires

² In the HEARTH Act, chronically homeless is defined as (1) An individual who: (i) Is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and (ii) Has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least one year or on at least four separate occasions in the last 3 years; and (iii) Can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42 U.S.C. 15002)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability; (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

³ Chronically homeless households are no longer considered chronically homeless once they become residents of transitional housing programs. As a result, such households are no longer eligible for permanent supportive housing programs that are restricted to serve only chronically homeless households. In addition, HUD strongly encourages permanent supportive housing providers to fill vacant beds with chronically homeless households.

additional time to prepare for independent living” as noted in § 578.79 Limitation on transitional housing.

Under § 578.51 Rental assistance, (l) Leases (2) Initial lease for transitional housing, the following is required:

“Program participants in transitional housing must enter into a lease agreement for a term of at least one month. The lease must be automatically renewable upon expiration, except on prior notice by either party, up to a maximum term of 24 months.”

Written Standard #2:

The lease with program participant “must be automatically renewable upon expiration, except on prior notice by either party, up to a maximum term of 24 months.”

Under § 578.37 Program components and uses of assistance, subsection (2), transitional housing is further described in the HEARTH Act as follows:

“Transitional housing facilitates the movement of homeless individuals and families to PH within 24 months of entering TH. Grant funds may be used for acquisition, rehabilitation, new construction, leasing, rental assistance, operating costs, and supportive services.”

Written Standard #3:

In order to facilitate the movement of program participants to PH within 24 months of entering TH, grant funds may be used for all of the following activities: acquisition, rehabilitation, new construction, leasing, rental assistance, operating costs, and supportive services.

Under § 578.53 Supportive services (b) Duration, the following is also noted:

(1) “For a transitional housing project, supportive services must be made available to residents throughout the duration of their residence in the project.”

(3) “Services may also be provided to former residents of transitional housing and current residents of permanent housing who were homeless in the prior 6 months, for no more than 6 months after leaving transitional housing or homelessness, respectively, to assist their adjustment to independent living.”

Written Standard #4:

Supportive services must be made available to program participants “throughout the duration of their residence” and such services “may also be provided to former residents of transitional housing and current residents of permanent housing who were homeless in the

prior 6 months, for no more than 6 months after leaving transitional housing or homelessness, respectively, to assist their adjustment to independent living.”

Under § 578.77 Calculating occupancy charges and rent, the following guidelines are provided:

“(a) Occupancy agreements and leases. Recipients and subrecipients must have signed occupancy agreements or leases (or subleases) with program participants residing in housing.

(b) Calculation of occupancy charges. Recipients and subrecipients are not required to impose occupancy charges on program participants as a condition of residing in the housing. However, if occupancy charges are imposed, they may not exceed the highest of:

(1) 30 percent of the family’s monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child-care expenses);

(2) 10 percent of the family’s monthly income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family’s actual housing costs) is specifically designated by the agency to meet the family’s housing costs, the portion of the payments that is designated for housing costs.

(4) Income. Income must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a). Recipients and subrecipients must examine a program participant’s income initially, and if there is a change in family composition (e.g., birth of a child) or a decrease in the resident’s income during the year, the resident may request an interim reexamination, and the occupancy charge will be adjusted accordingly.”

Written Standard #5:

Recipients and subrecipients of funding for transitional housing “are not required to impose occupancy charges on program participants as a condition of residing” in transitional housing. “However, if occupancy charges are imposed, they may not exceed the highest of:

(1) 30 percent of the family’s monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child-care expenses);

(2) 10 percent of the family’s monthly income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family’s actual housing costs) is specifically designated by the agency to meet the

family's housing costs, the portion of the payments that is designated for housing costs.

(4) Income. Income must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a). Recipients and subrecipients must examine a program participant's income initially, and if there is a change in family composition (e.g., birth of a child) or a decrease in the resident's income during the year, the resident may request an interim reexamination, and the occupancy charge will be adjusted accordingly.

Under § 578.79 Limitation on transitional housing, the following is stated:

"A homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the homeless individuals or families remain in that project longer than 24 months."

Written Standard #6:

Assistance for a transitional housing project may be discontinued "if more than half of the homeless individuals or families remain in that project longer than 24 months."

As noted on page 1, § 578.7 Responsibilities of the Continuum of Care, subsection (a) Operate the Continuum of Care (9), states that written standards must also include:

"policies and procedures for determining and prioritizing which eligible individuals and families will receive" transitional housing, rapid rehousing, and permanent supportive housing assistance.

Prioritizing which eligible individuals and families will receive transitional housing has been the focus of a few HUD publications during the past few years. On September 18, 2013, "What about Transitional Housing" was the emphasis of SNAPS Weekly Focus.

"It is time for CoCs to look at transitional housing programs with a critical eye – look at recent research, review each program's eligibility criteria, analyze outcomes and occupancy rates, and make sure the services offered (and paid for) actually match the needs of people experiencing homelessness within the CoC. Many transitional housing programs may need to change their program design or serve a different population. For example, some may need to remove strict eligibility criteria that result in those families that really need intensive services being screened out (often resulting in low occupancy). In other cases, the best course of action is to reallocate the transitional housing program in favor of a more promising model.

For many years, using HUD funds for transitional housing was the only funding alternative for serving families and individuals that did not need permanent supportive housing. With rapid re-housing now eligible under both the CoC Program and the Emergency Solutions Grants (ESG) program, there is an alternative and promising option for families with low-barriers that need shorter interventions. Rapid re-housing can be done with a lower cost per household – increasing the total number of households that can be served with the same amount of funding. If the majority of households served in your CoC's transitional housing are families with lower barriers, you should consider reallocating those projects into new rapid re-housing projects for families.

Similarly, as CoCs move to a more direct Housing First approach, eligible households with disabilities that will need long-term assistance likely do not need an interim stay in transitional housing. For example, a CoC that has a high number of people in transitional housing *waiting* for placement into permanent supportive housing should consider reallocating those transitional housing units into new permanent supportive housing.

We know that there are families and individuals who need more assistance than rapid re-housing offers but who do not qualify for permanent supportive housing. Transitional housing should be reserved for those populations that most need that type of intervention – programs that serve domestic violence survivors and youth and those that provide substance abuse treatment come to mind first – rather than being used either as a holding pattern for those that really need permanent supportive housing or those that need less intensive interventions.”

Appendix A: Supportive Services

§ 578.53 Supportive services.

(a) In general. Grant funds may be used to pay the eligible costs of supportive services that address the special needs of the program participants. If the supportive services are provided in a supportive service facility not contained in a housing structure, the costs of day-to-day operation of the supportive service facility, including maintenance, repair, building security, furniture, utilities, and equipment are eligible as a supportive service.

(1) Supportive services must be necessary to assist program participants obtain and maintain housing.

(2) Recipients and subrecipients shall conduct an annual assessment of the service needs of the program participants and should adjust services accordingly.

(b) Duration.

(1) For a transitional housing project, supportive services must be made available to residents throughout the duration of their residence in the project.

(2) Permanent supportive housing projects must provide supportive services for the residents to enable them to live as independently as is practicable throughout the duration of their residence in the project.

(3) Services may also be provided to former residents of transitional housing and current residents of permanent housing who were homeless in the prior 6 months, for no more than 6 months after leaving transitional housing or homelessness, respectively, to assist their adjustment to independent living.

(4) Rapid rehousing projects must require the program participant to meet with a case manager not less than once per month as set forth in § 578.37(a)(1)(ii)(F), to assist the program participant in maintaining long-term housing stability.

(c) Special populations. All eligible costs are eligible to the same extent for program participants who are unaccompanied homeless youth; persons living with HIV/AIDS; and victims of domestic violence, dating violence, sexual assault, or stalking.

(d) Ineligible costs. Any cost that is not described as an eligible cost under this section is not an eligible cost of providing supportive services using Continuum of Care program funds. Staff training and the costs of obtaining professional licenses or certifications needed to provide supportive services are not eligible costs.

(e) Eligible costs.

(1) Annual Assessment of Service Needs. The costs of the assessment required by § 578.53(a)(2) are eligible costs.

(2) Assistance with moving costs. Reasonable one-time moving costs are eligible and include truck rental and hiring a moving company.

(3) Case management. The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant(s) are eligible costs. Component services and activities consist of:

(i) Counseling;

(ii) Developing, securing, and coordinating services;

(iii) Using the centralized or coordinated entry system as required under § 578.23(c)(9).

(iv) Obtaining federal, State, and local benefits;

(v) Monitoring and evaluating program participant progress;

(vi) Providing information and referrals to other providers;

(vii) Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and

(viii) Developing an individualized housing and service plan, including planning a path to permanent housing stability.

(4) Child care. The costs of establishing and operating child care, and providing child-care vouchers, for children from families experiencing homelessness, including providing meals and snacks, and comprehensive and coordinated developmental activities, are eligible.

(i) The children must be under the age of 13, unless they are disabled children.

(ii) Disabled children must be under the age of 18.

(iii) The child-care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible.

(5) Education services. The costs of improving knowledge and basic educational skills are eligible.

(i) Services include instruction or training in consumer education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED).

(ii) Component services or activities are screening, assessment and testing; individual or group instruction; tutoring; provision of books, supplies, and instructional material; counseling; and referral to community resources.

(6) Employment assistance and job training. The costs of establishing and operating employment assistance and job training programs are eligible, including classroom, online and/or computer instruction, on-the-job instruction, services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is also an eligible cost.

(i) Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates.

(ii) Services that assist individuals in securing employment consist of:

(A) Employment screening, assessment, or testing;

(B) Structured job skills and job-seeking skills;

(C) Special training and tutoring, including literacy training and pre-vocational training;

(D) Books and instructional material;

(E) Counseling or job coaching; and

(F) Referral to community resources.

(7) Food. The cost of providing meals or groceries to program participants is eligible.

(8) Housing search and counseling services. Costs of assisting eligible program participants to locate, obtain, and retain suitable housing are eligible.

(i) Component services or activities are tenant counseling; assisting individuals and families to understand leases; securing utilities; and making moving arrangements.

(ii) Other eligible costs are:

(A) Mediation with property owners and landlords on behalf of eligible program participants;

(B) Credit counseling, accessing a free personal credit report, and resolving personal credit issues; and

(C) The payment of rental application fees.

(9) Legal services. Eligible costs are the fees charged by licensed attorneys and by person(s) under the supervision of licensed attorneys, for advice and representation in matters that interfere with the homeless individual or family's ability to obtain and retain housing.

(i) Eligible subject matters are child support; guardianship; paternity; emancipation; legal separation; orders of protection and other civil remedies for victims of domestic violence, dating violence, sexual assault, and stalking; appeal of veterans and public benefit claim denials; landlord tenant disputes; and the resolution of outstanding criminal warrants.

(ii) Component services or activities may include receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.

(iii) Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.

(iv) Legal services for immigration and citizenship matters and issues related to mortgages and homeownership are ineligible. Retainer fee arrangements and contingency fee arrangements are ineligible.

(10) Life skills training. The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, substance abuse, and homelessness are eligible. These services must be necessary to assist the program participant to function independently in the community. Component life skills training are the budgeting of resources and money management, household management, conflict management, shopping for food and other needed items, nutrition, the use of public transportation, and parent training.

(11) Mental health services. Eligible costs are the direct outpatient treatment of mental health conditions that are provided by licensed professionals. Component services are crisis interventions; counseling; individual, family, or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.

(12) Outpatient health services. Eligible costs are the direct outpatient treatment of medical conditions when provided by licensed medical professionals including:

(i) Providing an analysis or assessment of an individual's health problems and the development of a treatment plan;

(ii) Assisting individuals to understand their health needs;

(iii) Providing directly or assisting individuals to obtain and utilize appropriate medical treatment;

(iv) Preventive medical care and health maintenance services, including in-home health services and emergency medical services;

(v) Provision of appropriate medication;

(vi) Providing follow-up services; and

(vii) Preventive and non-cosmetic dental care.

(13) Outreach services. The costs of activities to engage persons for the purpose of providing immediate support and intervention, as well as identifying potential program participants, are eligible.

(i) Eligible costs include the outreach worker's transportation costs and a cell phone to be used by the individual performing the outreach.

(ii) Component activities and services consist of: initial assessment; crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; actively connecting and providing people with information and referrals to homeless and mainstream programs; and publicizing the availability of the housing and/or services provided within the geographic area covered by the Continuum of Care.

(14) Substance abuse treatment services. The costs of program participant intake and assessment, outpatient treatment, group and individual counseling, and drug testing are eligible. Inpatient detoxification and other inpatient drug or alcohol treatment are ineligible.

(15) Transportation. Eligible costs are:

(i) the costs of program participant's travel on public transportation or in a vehicle provided by the recipient or subrecipient to and from medical care, employment, child care, or other services eligible under this section.

(ii) Mileage allowance for service workers to visit program participants and to carry out housing quality inspections;

(iii) The cost of purchasing or leasing a vehicle in which staff transports program participants and/or staff serving program participants;

(iv) The cost of gas, insurance, taxes, and maintenance for the vehicle;

(v) The costs of recipient or subrecipient staff to accompany or assist program participants to utilize public transportation; and

(vi) If public transportation options are not sufficient within the area, the recipient may make a one-time payment on behalf of a program participant needing car repairs or maintenance required to operate a personal vehicle, subject to the following:

(A) Payments for car repairs or maintenance on behalf of the program participant may not exceed 10 percent of the Blue Book value of the vehicle (Blue Book refers to the guidebook that compiles and quotes prices for new and used automobiles and other vehicles of all makes, models, and types);

(B) Payments for car repairs or maintenance must be paid by the recipient or subrecipient directly to the third party that repairs or maintains the car; and

(C) The recipients or subrecipients may require program participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.

(16) Utility deposits. This form of assistance consists of paying for utility deposits. Utility deposits must be a one-time fee, paid to utility companies.

(17) Direct provision of services. If the a service described in paragraphs (e)(1) through (e)(16) of this section is being directly delivered by the recipient or subrecipient, eligible costs for those services also include:

(i) The costs of labor or supplies, and materials incurred by the recipient or subrecipient in directly providing supportive services to program participants; and

(ii) The salary and benefit packages of the recipient and subrecipient staff who directly deliver the services.