

**Amendment to CoC Standards of Care
For the Emergency Solution Grants (ESG) Program under the CARES Act**

July 2021

This Amendment to CoC Standards of Care incorporates ESG and ESG-CV waivers and alternative requirements under HUD Notices CBD-21-05 and CBD-21-08.

HUD Waivers and Alternative Requirements for the Emergency Solutions Grants (ESG) Program under the CARES Act

On July 19, 2021, HUD issued Notice CBD-21-08, which supersedes Notice CPD-20-08 (published September 1, 2020). Notice CBD-21-08 provides alternative requirements and waivers. HUD may reassess any waivers established under this Notice prior to September 30, 2022. Waivers provided under Notice CPD-21-05 issued on April 14, 2021 remain in effect as written and without alteration by Notice CBD-21-08.

Except as otherwise stated in Notice CBD-21-08, waivers and alternative requirements shall be deemed to be effective as of the date a State or unit of local government began preparing for coronavirus, which HUD shall presume to be January 21, 2020 – the date the first confirmed case was reported in the United States. However, each recipient must maintain adequate documentation to assure these waivers and alternative requirements are used only with respect to ESG- or ESG- CV-eligible activities the recipient or its subrecipients implemented to prevent, prepare for, and respond to coronavirus, including documentation demonstrating when their particular state or local government began preparing for coronavirus, such as notes on formal planning meetings or calls.

ESG-CV recipients will document that the ESG-CV flexibilities are used only for activities and costs that are to prevent, prepare for, and respond to coronavirus in the manner described in HUD's ESG-CV "Prevent, Prepare, and Respond" Tieback Flexibilities Guide.

1. Definitions

For purposes of ESG-CV funds, the definitions at 24 CFR 576.2 apply, except that:

a. At Risk of Homelessness – Higher Income Limit

The CARES Act raised the income limit in paragraph (1)(i) of the "at risk of homelessness" definition at 24 CFR 576.2 from 30 percent of area median income to the Very Low-Income limit of the area, as determined by the Secretary. The entire definition of "at risk of homelessness," incorporating the higher income limit for ESG-CV activities, is included below for reference.

At Risk of Homelessness means:

- (i) An individual or family who:
 - (a) Has an annual income that does not exceed the Very Low-Income Limit of the area, as established for HUD's Section 8 and Public Housing programs at www.huduser.gov/portal/datasets/il.html;
 - (b) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to

an emergency shelter or another place described in paragraph (1) of the “homeless” definition in 24 CFR 576.2; and

(c) Meets one of the following conditions:

- (I) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
- (II) Is living in the home of another because of economic hardship;
- (III) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
- (IV) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals; (V) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
- (VI) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or (VII) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.

(ii) A child or youth who does not qualify as “homeless” under 24 CFR 576.2, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

(iii) A child or youth who does not qualify as “homeless” under 24 CFR 576.2, but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

b. Homeless Definition – Alternative Requirement for Length of Institutional Stays

Homeless has the meaning established at 24 CFR 576.2 except that the limitation in paragraph (1)(iii) that 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 has been waived and the following alternative requirement established:

An individual may qualify as homeless under paragraph (1)(iii) of the homeless definition in 24 CFR 576.2 so long as the individual is exiting an institution where the individual resided for 120 days or less and the individual resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

This waiver and alternative requirement is necessary because recipients are reporting that program participants are residing in institutions for longer periods of time as a result of coronavirus (e.g., longer time in jail due to postponed court dates due to court

closings or courts operating at reduced capacity and longer hospital stays when infected with coronavirus). Allowing someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days is necessary to prevent the spread of coronavirus by expanding housing options for people who were experiencing homelessness and institutionalized longer than traditionally required due to coronavirus.

2. Higher Income Limit for Eligibility for Homelessness Prevention Assistance.

The requirements at 24 CFR 576.103 that provide that individuals or families who meet the criteria in paragraph (2), (3), or (4) of the “homeless” definition in 24 CFR 576.2 and have an annual income below 30 percent of median family income for the area, as determined by HUD, are eligible for homelessness prevention assistance is waived and an alternative requirement is established where individuals and families who meet the criteria in paragraph (2), (3), or (4) of the “homeless” definition and have an annual income that does not exceed the Very Low Income Limit for the area as established by HUD for HUD’s Section 8 and Public Housing Programs at www.huduser.gov/portal/datasets/il.html, are eligible for homelessness prevention assistance.

This alternative requirement will ease administrative burden for recipients and subrecipients by establishing a single income limit for households qualifying for homelessness prevention assistance and assist more households maintain housing and prevent homelessness which is necessary to prevent the spread of coronavirus.

3. Expansion of Eligibility for Rapid Re-housing (RRH) Assistance (Waiver under HUD Notice CPD-21-05, issued April 14, 2021)

24 CFR 576.104 establishes the RRH component and makes eligible housing relocation and stabilization services and short- and/or medium-term rental assistance as necessary to help individuals and families who meet the criteria under paragraph (1) of the “homeless” definition at 24 CFR 576.2 or under paragraph (4) of the “homeless” definition who live in an emergency shelter or other place described in paragraph (1) of the “homeless” definition.

HUD is establishing alternative requirements and waiving section 415(a)(4) and (5) of the McKinney-Vento Homeless Assistance Act and 24 CFR 576.104 to the extent necessary to provide that:

1. In addition to individuals and families who meet the existing requirements in 24 CFR 576.104, a recipient may expand the scope of eligible RRH beneficiaries to include individuals and families who meet ALL of the following criteria:
 - a. Qualified as “homeless” as defined in 24 CFR 576.2 immediately before moving into their current housing;
 - b. Have been residing in housing with time-limited rental assistance provided under a homeless assistance program (which means assistance limited to or reserved, either federally or locally, for people who are “homeless” as defined in 24 CFR 576.2) other than the ESG program (e.g., time-limited rental assistance that was funded under the Supportive Services for Veteran Families Program or the Coronavirus Relief Fund and provided only to people who qualified as “homeless” as defined in 24 CFR 576.2);

- c. Would not have any overlap in rental assistance between the non-ESG program and the ESG program, due to exhaustion or expiration of the non-ESG assistance or program funds;
 - d. Would not have a gap of more than one month (or equivalent amount of days) between the end of the non- ESG rental assistance and the beginning of their ESG RRH rental assistance; and
 - e. Do not have the resources or support networks (beyond an eviction moratorium) (e.g., family, friends or other social networks) needed to retain their existing housing without ESG assistance.
2. Recipients that expand the scope of RRH beneficiaries as provided above must amend their consolidated plans as provided by 24 CFR 91.505 and 576.200(b), except that the recipient is not required to comply with any consultation or citizen participation requirements (as provided by the CARES Act), provided that the recipient publishes its plan to include these newly eligible RRH beneficiaries, at a minimum, on the Internet at the appropriate Government web site or through other electronic media.
 3. If individual or family meets the new RRH criteria above but is already an ESG RRH program participant (because they have been receiving services under 24 CFR 576.105), the individual or family may be provided ESG-funded rental assistance without being treated as a new applicant or program participant for purposes of HUD's coordinated assessment, written standards, HMIS, initial evaluation, re-evaluation, housing stability plan, and recordkeeping and reporting requirements (24 CFR 576.400(d), (e), (f); 576.401(a), (b), (e)(1)(ii), and 576.500). However, with respect to any other individuals and families for which the recipient exercises the new flexibilities provided in this notice, the recipient must account for the new RRH beneficiaries by making corresponding changes as appropriate to the applicable written standards for administering RRH assistance (including beneficiary eligibility and prioritization criteria), HMIS, and procedures for centralized or coordinated assessment, initial evaluation, re-evaluation, and recordkeeping and reporting.

Justification for Waiver:

Many individuals and families experiencing homelessness are able to be housed with time-limited rental assistance funded by homelessness assistance resources other than ESG. In some cases, despite the efforts of local service providers, some households continue to be unable to afford housing at the end of the assistance period and would lose their housing without continued assistance. Waiving the eligibility criteria for ESG funded RRH as discussed above will ensure individuals and families currently receiving time-limited rental assistance funded through other sources will not lose their housing during the coronavirus public health crisis and the subsequent economic downturn. This will reduce the spread and harm of coronavirus by enabling households receiving homelessness assistance who had previously experienced homelessness to continue to practice social distancing, isolate, or quarantine in their housing.

4. Total Period of Homeless Prevention and Rental Assistance Allowed

In order to ensure current program participants receiving homelessness prevention and rapid re-housing assistance do not lose their housing during the coronavirus public health crisis and the subsequent economic downturn caused by the crisis, the requirements in 24 CFR 576.105(c) and 576.106(a) are waived as follows:

The requirement at 24 CFR 576.105(c) limiting the total period of time for which any program participant may receive the services under paragraph (b) and the requirement at 24 CFR 576.106(a) limiting the total number of months a program participant can receive rental assistance to 24 months during any 3-year period are waived for all participants while receiving ESG-CV.

PRIOR LIMITATION OF MEDIUM-TERM RENTAL ASSISTANCE

Limitation of medium-term rental assistance to twelve (12) months under prior HUD Notice has been lifted per Notice CDP-21-08.

5. Re-Evaluations of Eligibility and Need for Further Assistance

a. Higher Income Eligibility Cap for Additional Prevention or Rapid Re-Housing Assistance at Time of Re-Evaluation

As required by 24 CFR 576.401(b), the recipient or subrecipient must re-evaluate a program participants eligibility and the types and amounts of assistance the program participant needs in accordance with the requirements of that section.

HUD is waiving 24 CFR 576.401(b)(i), which requires that the re-evaluation must verify the program participant does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD. HUD is establishing the alternative requirement that the re-evaluation must verify the program participant does not have an annual income that exceeds the Very Low- Income limit for the area, as established for HUD's Section 8 and Public Housing programs at www.huduser.gov/portal/datasets/il.html.

HUD has determined that increasing the annual income allowance for program participants receiving rapid re-housing and homelessness prevention assistance will help program participants maintain housing, thus preventing the spread of coronavirus.

b. Frequency of Housing Prevention Assistance Re-Evaluation

24 CFR 576.401(b) requires recipients or subrecipients providing homelessness prevention assistance to re-evaluate a program participant's eligibility, and the types and amounts of assistance the program participant needs.

The requirement to conduct this re-evaluation not less than once every three (3) months is waived so long as recipients and subrecipients providing homelessness prevention assistance re- evaluate a program participant's eligibility, and the types and amounts of assistance the program participant needs, not less than once every six (6) months.

HUD has determined this waiver and alternative requirement is necessary to help program participants remain stable in housing during the economic uncertainty caused by coronavirus.

This waiver and alternative requirement provide additional flexibility beyond the waiver made available to the ESG Program on March 31, 2020 and extended to ESG-CV funds on May 22, 2020 by lifting the two-year limit on the waiver so that this flexibility applies throughout the period the recipient uses funds to prevent, prepare for, and respond to coronavirus.

6. Housing Stability Case Management

a. Extended Duration of Housing Stability Case Management During Housing Search

HUD is waiving the 30-day limit established in 24 CFR 576.105(b)(2) to the extent necessary to allow recipients or subrecipients to provide up to 60 days of housing stability case management while the program participant is seeking housing.

This waiver and alternative requirement is necessary to help recipients and subrecipients continue to assist program participants in obtaining new housing, which is crucial to preventing the spread of coronavirus, and will continue to be necessary after social distancing measures are no longer in effect but rental markets remain tight due to the economic downturn caused by coronavirus.

b. Housing Stability Case Management Regulatory Requirements & Waiver of Monthly Client Meetings

i. Housing Stability Case Management Regulatory Requirements:

As required by 24 CFR 576.401(a) and (c), the recipient and its subrecipient must determine the available services and assistance that each ESG-CV program participant will need to achieve independent living and avoid further housing instability or homelessness, and the recipient and its subrecipient must assist each ESG-CV program participant, as needed, to obtain those services and assistance.

ii. Monthly Client Meetings:

HUD is making an across-the-board waiver of the ESG requirement in 24 CFR 576.401(e)(1) that housing stability case managers meet not less than once per month with each program participant receiving rapid re-housing assistance or homelessness prevention. Housing stability case management should be provided on an as needed basis to meet housing stability case management regulatory requirements above.

HUD is waiving this requirement for all program participants receiving this assistance after qualifying as homeless, in order to be consistent with the CARES Act prohibition stated in Section III.F.12.

HUD is waiving the requirement for all program participants receiving assistance after qualifying as at risk of homelessness, in order to prevent the spread of coronavirus and reduce the barriers to providing the homelessness prevention that is necessary to respond to coronavirus.

This waiver provides additional regulatory relief beyond the waiver HUD made available on March 31, 2020 for annual ESG funds and extended on May 22, 2020 for annual ESG funds and ESG-CV funds, by lifting the 3-month limitation established May 22, 2020, and making the waiver of 24 CFR 576.401(e)(1) apply throughout the period the recipient or subrecipient uses funds to prevent, prepare for, and respond to coronavirus.

7. Waiver of FMR Limits on Rental Assistance

Prohibition of rent assistance where the rent exceeds Fair Market Rent established by HUD, as provided under 24 CFR Part 888, (24 CFR 576.106(d) is waived so long as the rent complies with HUD's standards of rent reasonableness, as established under 24 CFR 982.507.

Waiving this requirement will allow recipients to help program participants move quickly into housing or retain their existing housing, which is especially critical at reducing the spread of coronavirus and responding to coronavirus.

This waiver provides additional flexibility beyond the waiver made available to the ESG Program on March 31, 2020 and extended to ESG- CV funds on May 22, 2020 by permitting ESG recipients to provide rental assistance for program participants, whose current rent exceeds FMR and by allowing recipients to use this waiver as needed throughout the period they are providing rental assistance to prevent, prepare for, and respond to coronavirus.

8. Project Sponsor Monthly Rent Assistance

The limitations in section 415(a)(4) of the McKinney-Vento Act and 24 CFR 576.106(i)(3) are waived to the extent necessary to establish the following alternative requirement for project-based rental assistance provided under 24 CFR 576.106(i): The recipient or subrecipient may make monthly rental assistance payments only for each whole or partial month an assisted unit is leased to a program participant, except that if a program participant moves out of an assisted unit before expiration of the agreement, the recipient or subrecipient may use ESG-CV funds to cover up to 100 percent of the rent for the unit for up to 30 days from the end of the month in which the unit was vacated, while the recipient or subrecipient attempts to house another eligible program participant in that unit. This payment will not count toward the total rental assistance provided to the next program participant housed in the unit, unless the program participant moves in during the first half of the month that is paid using this flexibility. This payment will not prevent paying up to 100 percent of the first month's rent for the new program participant as provided under 24 CFR 576.106(i)(2), as long as the payments are made for different months.

This flexibility is necessary to assure recipients and subrecipients can maintain the availability of assisted units in which individuals and families experiencing or at risk of homelessness can be quickly re-housed, which is critical to preventing the spread of coronavirus and helping individuals and families experiencing and at risk of homelessness obtain housing in tight rental markets during the economic downturn caused by coronavirus.

9. Assisting Program Participants with Subleases

To the extent that the references to "owner" and "lease" in 24 CFR 576.105 and 576.106 restrict program participants from receiving assistance in units they sublease from the primary leaseholder, that restriction is waived and the following alternative requirement is established: When a program participant chooses to rent a unit through a legally valid sublease with the primary leaseholder for the unit, the terms "owner" and "housing owner" are waived and replaced with "primary leaseholder," and the term "lease" will be understood to refer to the sublease, when those terms appear in 24 CFR 576.105, 576.106, 576.409, and 576.500(h).

This additional flexibility will expand the permanent housing options for individuals and families experiencing and at risk of homelessness, which is critical to preventing the spread of coronavirus and helping individuals and families experiencing and at risk of homelessness obtain housing in tight rental markets during the economic downturn caused by coronavirus.

10. Housing Habitability Standards – Inspection

a. Habitability Inspections when Providing Housing Relocation and Stabilization Services for Homelessness Prevention (Waiver under Notice CPD-21-08 issued July 19, 2021)

The requirement at 24 CFR 576.403(c) that recipients and subrecipients may not use ESG funds to help a program participant remain in housing that does not meet minimum habitability standards outlined in that section is waived to the extent necessary to allow the recipient or subrecipient to provide housing relocation and stabilization services under 24 CFR 576.105(b) to help individuals and families remain in their existing housing or move into new housing.

Waiver not applicable to other ESG homeless prevention activities or Rapid Re-Housing: This alternative requirement applies only to Housing Relocation and Stabilization Services. It does not waive the requirements at 24 CFR 576.403(c) with respect to other activities under the homelessness prevention component or with respect to any activity under the rapid re-housing component.

During the coronavirus pandemic the best way to help prevent the spread of coronavirus is to help individuals and families at risk of homelessness maintain their current housing or remain in their existing housing until a different housing unit can be identified.

Additionally, the coronavirus pandemic created an economic downturn that put many at risk of losing their housing, including housing they rent or share with others. Providing housing relocation and stabilization services can help these households maintain their current housing by avoiding eviction records or additional economic insecurity caused by having to pay security deposits and other costs related to renting a new unit. Therefore, allowing recipients and subrecipients to provide housing relocation and stabilization services under the homelessness prevention component is necessary to prevent, prepare for, and respond to coronavirus.

b. Rapid Re-Housing Habitability Standards Inspections (Waiver under HUD Notice CPD-21-05, issued April 14, 2021)

Recipients or subrecipients cannot use ESG funds to help program participants remain in or move into housing that does not meet minimum habitability standards provided at 24 CFR 576.403(c).

For recipients who choose to serve individuals and families made eligible for Rapid Re-Housing assistance in Section III.1 of Notice CPD-21-05 (April 14, 2021), the requirements at 24 CFR 576.403(c) are waived and the ESG recipient or subrecipient can provide rental assistance and housing relocation and stabilization services without first inspecting the unit so long as:

1. The recipient or subrecipient maintains documentation showing the prior rental assistance provider determined that the housing meets:
 - a. The habitability standards established at 24 CFR 576.403(c); or
 - b. Housing Quality Standards (HQS) established at 24 CFR 982.401; or
2. The recipient or subrecipient provides no more than 90 days of RRH assistance to the program participant; or
3. The recipient or subrecipient conducts an inspection within the first 90 days and determines the housing meets the habitability standards established at 24 CFR 576.403(c) or the HQS established at 24 CFR 982.401.

The habitability standards established at 24 CFR 576.403(c) are meant to ensure that program participants are residing in housing that is safe and sanitary. Accepting the housing inspection reports of previous rental assistance providers as evidence and allowing up to 90 days to conduct initial inspections to determine the housing is safe and sanitary will allow recipients and subrecipients to provide rental assistance and housing relocation and stabilization services to households that qualify for RRH assistance in Section III.1 of the Notice without a gap between their prior assistance and ESG funded RRH assistance while still ensuring their housing is safe and sanitary. This will help maintain positive relationships with landlords while helping program participants maintain housing during the public health crisis and subsequent economic downturn. This will reduce the spread and harm of COVID-19 by enabling affected households to continue to socially distance, isolate, or quarantine in their housing.

c. Housing Standards Flexibility (Waiver under Notice CPD-21-08 issued July 19, 2021)

As required by 24 CFR 576.403(c), the recipient or subrecipient cannot use ESG-CV funds to help a program participant remain or move into housing that does not meet the minimum habitability standards provided in that section.

However, HUD is waiving this requirement for recipients or subrecipients who apply the applicable Housing Quality Standards (HQS) under 24 CFR 982.401, except 24 CFR 982.401(j) need only be applied to housing occupied by program participants receiving tenant-based rental assistance.

HUD has determined waiving the requirement at 24 CFR 567.403(c) is necessary to allow recipients and subrecipients to use the housing inspection process with which they are most familiar, easing administrative burden, while continuing to ensure housing meets minimum quality standards and quickly housing or helping program participants maintain housing thus preventing the spread of coronavirus.