

ADVISORY

How Do Recent HUD Proposed Rules About Verification of Immigration Status Impact Survivors of Domestic Violence & Sexual Assault?

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Background

The Department of Housing and Urban Development (HUD) proposed regulations that change longstanding policy relating to immigration status verification requirements and disallowing those ineligible for federal housing assistance (i.e., members of “mixed-status” households) from residing in HUD’s public and specified assisted housing programs.¹ The proposed rule applies to HUD programs covered by Section 214 of the Housing and Community Development Act, such as Public Housing, Section 8 Housing Vouchers, Section 8 Project-Based Housing, Section 236 and Rent Supplement Housing, Section 235 Homeownership Housing, Housing Development Grants for low income units, and the Section 23 Leased Housing Assistance Program.² The proposed rule does **NOT** apply to housing funded under the McKinney Act Shelter and Transitional Housing Programs, HOME block grants, Community Development Block Grant (CDBG) funded housing, Section 202 projects for housing for the elderly, Section 811 projects for housing for people with disabilities, Section 221(d)(3) or (d)(5) private loan funded multi-family housing, Rental Rehabilitation loan funded rehabilitated housing, Indian Housing, HOPWA grant funded housing for persons with AIDS and HIV, HOPE 2 funded properties, or VAWA or state-funded housing projects.³ The Notice of Proposed Rulemaking (NPRM) was published in the Public Register on May 10, 2019.

Current Policy

Under current law, “mixed-status” households, i.e., households where family members who are ineligible for housing subsidies, are permitted to live in a home with their family

¹ <https://www.regulations.gov/document?D=HUD-2019-0044-0001>

² See, <http://nhlp.org/files/greenbook4/Chapter2/FN%20179%20NHLP%20Memo%20Housing%20Covered%20by%20Section%20214.pdf>

³ Please note, when housing projects funded under these programs include Section 8 Housing Assistance, including Housing Choice Vouchers, the proposed rule *does* apply.

members who are eligible for federal housing subsidies, with the rents for the family prorated to ensure that none of the HUD subsidy assists with the ineligible household member's portion of the rent. It is important to note that just because a household member is an "ineligible" immigrant, it doesn't mean that they are undocumented. Immigrants can have legal status and still not be eligible to receive housing assistance. For example, victims of domestic violence, sexual assault, or other crimes who have U-visas (crime victim visas), are not eligible for federal housing assistance.⁴

Public housing authorities (PHAs) and private owners and managers can calculate the rent charged to those households in order to ensure subsidies do not benefit the ineligible immigrants. Ultimately, mixed-status households pay significantly higher rents than do similarly situated and sized households who are not mixed-status.

It is important to note that under the proposed rule, **some immigrant survivors continue to be eligible for federal subsidized housing.** These include abused lawful permanent residents (including conditional residents); refugees; asylees; survivors of trafficking (those with T visas); "qualified" abused spouses or children and self-petitioners under the Violence Against Women Act; and certain people who have been paroled into the U.S.⁵ **Because some survivors of domestic violence or sexual assault may not fall into these specific immigration categories, it will be important to determine whether they are excluded from receiving housing subsidies** under the rule if it goes into effect.

What's Next?

Policies such as those outlined in the draft proposed rule are having, and will continue to have a significant detrimental impact on survivors of domestic violence and sexual assault by deterring immigrant families, including those with U.S. citizen and Lawful Permanent Resident children, from accessing critical help when they need it. Housing assistance is a vital resource for survivors, giving them the security they need to leave abuse without having to fear that doing so will result in homelessness, as well as providing a safe environment to begin their recovery.

Financial barriers, including the lack of access to affordable housing, can prevent victims from leaving abusive relationships. The Centers for Disease Control has concluded that improving financial security for individuals and families can help reduce and prevent intimate partner violence.⁶ One of the greatest needs identified by survivors is affordable housing. In a single day, domestic violence programs across the United States received service requests from 72,245 victims. Out of a total of 11,441 unmet requests, 7,416 were unmet requests for housing services.⁷ The inability to find and maintain affordable housing puts

⁴ See, e.g., 42 U.S.C. 1436a(a) does not identify U visa holders as eligible for federal housing assistance.

⁵ See HUD guidance on VAWA Self-Petitioners at <https://www.hud.gov/sites/documents/17-02PIHN.PDF> and 42 USC 1436a

⁶ Centers for Disease Control (2017). Preventing Intimate Partner Violence Across the Lifespan: A Technical Package of Programs, Policies, and Practices. Available at <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>

⁷ National Network to End Domestic Violence. 2018. Domestic Violence Counts: 12th Annual Census Report. Available at <https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/>.

survivors at extreme risk of homelessness. Between 22% and 57% of all homeless women report that domestic violence was the immediate cause of their homelessness,⁸ and victim service providers, advocates, and allies across the United States report that survivors became homeless as a result of sexual violence.⁹ Sexual assault survivors may be forced to leave their housing and/or employment as a result of the violence, and become even more at risk for future sexual violence as a result.¹⁰ Without housing, sexual assault victims report that other services to address the violence were not likely to be helpful.¹¹ For many survivors, housing assistance provides the answer that survivors need in order to leave abusive personal and employment relationships, and creates a pathway to safety. Housing and other safety net benefits can help victims recover and escape from abuse and play a significant role in preventing future harm.¹²

If the regulations are adopted as drafted in the Notice of Proposed Rulemaking (NPRM), families receiving federal subsidized housing benefits with ineligible members will face eviction from subsidized housing after 18 months, or possibly sooner. It is also highly likely that the proposal would threaten housing assistance for millions of households that remain eligible for assistance and consist only of U.S. citizens or eligible immigrants, as the rule would require tens of thousands of housing agencies and private property owners to collect documents “proving” the citizenship of more than 9 million assisted residents who have already attested, under penalty of perjury, that they are U.S. citizens, as well as the citizenship of future applicants for assistance. Under HUD’s own analysis, it is anticipated that 55,000 very low income U.S. citizen or Legal Permanent Resident children are expected to lose housing.¹³ In addition, it would require some 120,000 vulnerable elderly immigrants, who may face health, transportation, and language barriers, to submit documents indicating their status. If individuals are unable to produce these documents in the timeframe permitted, they can lose their housing assistance and, in turn, lose their homes.

It is critical to educate policy makers and community leaders about the pivotal role that access to subsidized and safe housing benefits have in helping victims overcome domestic violence and sexual assault. **The public has until July 9, 2019 to inform HUD about the impact of this proposed rule on immigrant survivors by submitting comments through an**

⁸ Wilder Research Center, Homelessness in Minnesota, 2003 (2004); Center for Impact Research, Pathways to and from Homelessness: Women and Children in Chicago Shelters (2004); Nat’l Center on Family Homelessness & Health Care for the Homeless Clinicians’ Network, Social Supports for Homeless Mothers (2003); Institute for Children & Poverty, The Hidden Migration: Why New York City Shelters Are Overflowing with Families (2004); Homes for the Homeless & Institute for Children & Poverty, Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America (1998).

⁹ National Sexual Violence Resource Center. 2010. Housing and Sexual Violence: Overview of national survey: January 2010. Available at http://www.nsvrc.org/sites/default/files/NSVRC_Publications_Reports_Housing-and-sexual-violence-overview-of-national-survey.pdf

¹⁰ See, e.g., Loya, R. M. (2014) Rape as an economic crime: The impact of sexual violence on survivor’s employment and economic well-being. *Journal of Interpersonal Violence*, 30 (16), 2793-2813. doi:10.1177/0886260514554291

¹¹ See, e.g., Logan, TK, Evans, L., Stevenson, E., & Jordan C. E. (2005). Barriers to services for rural and urban survivors of rape. *Journal of Interpersonal Violence*, 20, 591-616. doi:10.1177/0886260504272899

¹² See, e.g., Centers for Disease Control (2017). Preventing Intimate Partner Violence Across the Lifespan: A Technical Package of Programs, Policies, and Practices. Available at <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>

¹³ <https://www.regulations.gov/document?D=HUD-2019-0044-0002>

official “notice-and-comment” period. To learn more about the proposed rule, read the latest news, and to provide comments about the impact of the proposed rule, go to <http://keep-families-together.org/>.



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