
Question Response for CoC Question ID 154835 - HUD Exchange Ask A Question

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To: mollie@thn.org

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Question Status: Answered

Thank you for submitting a question via the HUD Exchange. The response to your question is listed below.

Requestor Name: Mollie Lund

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Question Related To: Continuum of Care Program

Question ID: 154835

Question Subject:

Health Preparedness and Response: Homelessness Prevention & Definition 2 of the Homeless Definition

Question Text:

Please advise on Homeless Definition 2 and Homelessness Prevention.

An ESG Recipient in the TX BoS CoC has reached out concerned that they will not be able to provide HP to those in their community before their contract is up because their judge issued "no evictions for 30 days" this ESG Recipient believes that in order to use their HP Funds for the Homeless Definition 2 they need that Eviction Notice.

From my review with the document attached and the CFR - 24 CFR § 576.500 - Recordkeeping and reporting requirements.

I have found the following:

(3) If the individual or family qualifies as [homeless](#) under paragraph (2) of the [homeless](#) definition in [§ 576.2](#), because the individual or family will imminently lose their housing, the evidence must include:

(A) A court order resulting from an eviction action that requires the individual or family to leave their residence within 14 days after the date of their application for [homeless](#) assistance; or the equivalent notice under applicable [state](#) law, a Notice to Quit, or a Notice to Terminate issued under [state](#) law;

(B) For individuals and families whose primary nighttime residence is a hotel or motel room not paid for by charitable organizations or federal, [state](#), or local government programs for low-income individuals, evidence that the individual or family lacks the resources necessary to reside there for more than 14 days after the date of application for [homeless](#) assistance; or

(C) An oral statement by the individual or head of household that the [owner](#) or renter of the housing in which they currently reside will not allow them to stay for more than 14 days after the date of application for [homeless](#) assistance. The intake worker must record the statement and certify that it was found credible. To be found credible, the oral statement must either: (I) be verified by the [owner](#) or renter of the housing in which the individual or family resides at the time of application for [homeless](#) assistance and documented by a written certification by the [owner](#) or renter or by the intake worker's recording of the [owner](#) or renter's oral statement; or (II) if the intake worker is unable to contact the [owner](#) or renter, be documented by a written certification by the intake worker of his or her due diligence in attempting to obtain the [owner](#) or renter's verification and the written certification by the individual or head of household seeking assistance that his or her statement was true and complete;

Per this definition and the document (https://files.hudexchange.info/resources/documents/HomelessDefinition_RecordkeepingRequirementsandCriteria.pdf), it is not clear if after A it is or, or if B & C just refer to those living in a

hotel/motel.

If someone is not living in a hotel/motel but has not received a court order are they eligible to give an oral statement?

If agencies are not able to provide services to those that do not have a court order, how is HUD recommending agencies spend their HP funds during this time?

Best,

Mollie Lund

Response:

Thank you for your question.

Our response below provides guidance on the eligibility requirements for ESG homelessness prevention assistance. The response to your specific question depends on whether a household's intake and evaluation process occurred before or after the judge issued the 30-day moratorium on evictions.

If the 30-day moratorium on evictions was issued before the household was determined eligible for ESG homelessness prevention assistance, then moratorium would need to be considered in the evaluation and would mean that the household would not meet the eligibility requirements of ESG homelessness prevention assistance until 14 days before the eviction notice is to take effect. Additionally, the moratorium would need to be considered when determining whether the program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance.

If a household was determined eligible for ESG homelessness prevention assistance before the moratorium took effect, the moratorium would not affect the household's eligibility determination. However, HUD encourages recipients/subrecipients to assess each program participant and assign an appropriate level of service intervention. In determining what additional supports to provide, the intake worker should consider all resources and support networks available to the household. Based on this assessment, the intake worker might determine that the household would not need rental assistance until the moratorium on eviction ends and then at that point the intake staff may find that the household needs both rental arrears and rental assistance.

Case managers will need to use their judgment and consider changing circumstance such as a moratorium extension. Under all circumstances, a case manager should be working with the household on their plan to retain permanent housing after the ESG assistance ends and to connect them to mainstream and other resources.

Determining Eligibility for ESG Homelessness Prevention Assistance

Please note that a **household must be eligible to receive ESG assistance** under the Homelessness Prevention component. Simply falling behind on rent does not necessarily qualify a household to receive assistance. In accordance with the threshold requirements in 24 CFR § 576.103, the recipient or subrecipient must determine that the assistance is necessary to prevent the family from entering an emergency shelter or another place described in paragraph (1) of the "homeless" definition in 24 CFR § 576.2.

HUD encourages recipients and subrecipients to target homelessness prevention assistance to those families who are most likely to enter shelter or the streets if they are not assisted under ESG, because not all families who qualify as at risk of homelessness will actually become homeless without ESG assistance.

Homelessness Prevention assistance may be provided to households who meet the criteria under the At Risk of Homelessness definition, or who meet the criteria in paragraph (2), (3), or (4) of the homeless definition and have an annual income below 30% of median family income. Eligibility documentation requirements vary depending on which criteria are met. We believe you are asking for more clarification about acceptable documentation for Category 2 of the Homeless definition and Category 1: Risk Factor (C) of the At Risk of Homelessness definition. The difference between the two eligibility categories is that, for Homeless Category 2, the household will lose their housing within 14 days while for At Risk Category 1C, the household has been notified in writing that their **right to occupy housing** will be terminated within 21 days. An oral statement by the individual or head of household would not provide sufficient documentation under these circumstances.

With regard to documentation of at risk of homelessness status, to the extent that source documents, such as an eviction notice from the landlord or a demand notice that effectively terminate a household's right to occupy the unit within 21 days, and third-party verification are unobtainable, **a written statement by the recipient's or subrecipient's intake staff describing the efforts taken to obtain the required evidence would be considered acceptable evidence.** (24 CFR 576.500(c)(1)(iv)(C)). Intake worker notes should demonstrate that they have exercised due diligence in attempting to obtain a higher level of documentation.

Please stay tuned for guidance and ensure you have access to up-to-date information from HUD via the [ESG and CoC listservs](#). In the interim, HUD encourages recipients to work with landlords to keep program participants housed. Please reopen this question if program participants are at imminent risk of eviction.

Documentation for Category 2 of the Homeless definition:

Evidence that a household will imminently lose their housing must include a court order resulting from an eviction action that requires the individual or family to leave their residence within 14 days after the date of their application for homeless assistance; or the equivalent notice under applicable state law, a Notice to Quit, or a Notice to Terminate under state law. Acceptable documentation must substantiate that the criteria of Category 2 of the Homeless definition has been met; that is, the household will lose their residence within 14 days. A Notice to Quit or a Notice to Terminate issued under state law does not need to be equivalent to a court-ordered eviction action. However, if there is no reasonable expectation that a household will lose their residence within 14 days as a result of the issuance of a Notice to Quit, Notice to Terminate, or demand notice, then the criteria of Category 2 have not been met.

Documentation for Category 1: Risk Factor (C) of the At Risk of Homelessness definition:

Eligibility documentation for Category 1: Risk Factor (C) of the At Risk of Homelessness definition does not need to be equivalent to a court-ordered eviction action. Acceptable documentation must substantiate that a household's right to occupy housing will be terminated within 21 days, not necessarily that the household will be required to leave the unit within 21 days. In order to sufficiently document that the criteria for Category 1C have been met, other documentation, such as an eviction notice prepared by the landlord or a demand notice, must effectively terminate a household's right to occupy the unit within 21 days. If the documentation provides a way for the tenant to remedy the situation and avoid eviction, e.g., paying the balance, the applicant must lack the ability to meet the terms of avoiding eviction in order to be eligible for assistance.

Finally, HUD strongly encourages each jurisdiction to focus as much of its ESG funding as possible on prioritizing those with the greatest need of assistance, which could mean targeting Homelessness Prevention assistance on those households that are more likely to be evicted without ESG assistance (i.e., those households meeting Category 2 of the Homeless definition rather than Category 1: Risk Factor (C) of the At Risk of Homelessness definition). In general, the successes of Homelessness Prevention activities are much more difficult to measure and the prevention assistance is harder to strategically target. These difficulties increase the risk that the use of ESG funds for Homelessness Prevention assistance will be inefficient at demonstrably preventing people from going to the streets or shelters. Given the limited ESG resources, Rapid Re-housing should be given the highest priority under ESG to help ensure that existing resources - both within and outside the homelessness assistance system -- are used as efficiently as possible to help those most in need.

Please note: the response provided in this email is specific to the question you submitted and may not apply to similar questions. Therefore, please use discretion in providing the response to others, as the answer may not apply to their particular situations.

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