



## **Relief and Support for Low Income Seniors in Federally-Assisted Housing**

**April 10, 2020 – Department of Housing and Urban Development**

### **HUD-Assisted, Service-Enriched Affordable Senior Housing**

There are several thousand federally-assisted, affordable senior housing communities for older adults with low incomes in the United States. Residents in these communities have more chronic conditions than their peers without housing assistance and are more at-risk for flu-like viruses such as COVID-19; at the same time, they have limited means to prepare for and overcome the current health and economic emergency.

Federally-assisted affordable senior housing communities are privately-managed, independent living environments where residents are supported as they age in community. Multifamily housing providers manage and maintain safe and decent housing for low-income residents, who have networks of both resident-coordinated and building-coordinated service providers coming and going from their buildings 24 hours a day to achieve the goals of aging in community.

### **Federal Support for Low-Income Seniors Living in HUD-Assisted Communities**

Given the urgency of the COVID-19 situation and the high risk seniors face of contracting the virus, we urge the federal government to apply the same level of scrutiny and care to Section 202 developments as nursing homes or other facilities that house and serve older adults.

We request that, under the umbrella of the White House Coronavirus Task Force, HUD amplify coordination with the Departments of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC) to proactively support older adults through this health crisis.

By preemptively identifying high-risk communities including seniors living in Section 202 buildings and providing clear guidance, financial support, and means for preventative care, more lives will be saved amid the pandemic and fewer patients will enter the healthcare system for care.

### **Agency Relief and Guidance for Affordable Senior Housing Providers**

HUD's Office of MFH has been a strong partner to LeadingAge and our affordable housing provider members as the country navigates COVID-19. In particular, HUD has provided key relief options in response to advocacy by LeadingAge, our members, and our partners:

- Temporary relief from physical property inspections, except for in health or safety emergencies;
- Expanded access to reserve funds and residual receipts for COVID-19 expenses; and
- Electronic or streamlined options for certain operational requirements.

LeadingAge continues to urge various program offices within HUD, and the agency at large, to provide further support and guidance for housing providers serving older adults during this health and economic emergency.

## **Providers need immediate relief to help navigate COVID-19 in senior housing properties**

We ask that HUD's office of Multifamily Housing continue their strong commitment to support affordable senior housing providers throughout this crisis. Providers need the following immediate relief in order to preserve the wellbeing of older adults in HUD-assisted communities:

### **1. Office Hours and Assistance – Provide regular stakeholder updates, trainings, and assistance**

We commend HUD's Office of Multifamily Housing for continuing regular operations throughout a transition to remote work for agency staff. We ask that the office of MFH continue its weekly updates, either recorded or via conference call, to address national questions from providers. In addition, HUD should also make trainings and technical assistance available for staff who are navigating uncharted territory while prioritizing the wellbeing of residents.

### **2. Stimulus Checks – Clarify exclusion of stimulus checks from income determinations**

The CARES Act authorized Economic Impact Payments for individuals under certain incomes, including low-income households in HUD-assisted housing. We urge HUD to issue guidance excluding this sporadic income from all purposes of determining eligibility and rent. A similar Notice can be referenced at Notice H 08-05, titled "Fiscal Year 2008 Economic Stimulus Payments (Tax Rebates) Excluded from Income."

### **3. Waiver Authority – Broadly apply optional regulatory waivers for owners**

The CARES Act authorized broad waiver authority for HUD. We encourage the agency to apply this authority broaden to issue optional waivers for the Office of Multifamily Housing and will be submitting specific requests.

### **4. Supplemental Funds – Quickly allocate emergency funds for increased property subsidy, unanticipated health and safety costs, and replace non-traditional reserve draws**

We support HUD's efforts to expeditiously allocate the CARES Act appropriation of emergency supplemental funding for HUD Project-Based Rental Assistance, Section 202 Supportive Housing for the Elderly, and Service Coordinators. We request that the funds be made available to replenish the operating accounts of owners for both ongoing costs and already incurred costs. In particular, we support HUD's efforts to allocate the funds for a rent "backstop" – that is, to cover property subsidy increases when tenant rents decrease as triggered by an income recertification.

However, many providers are encountering many other expenses related to COVID-19, including extended vacancies at properties or non-payments that are not accompanied by interim recertifications; providers are also paying for extra cleaning procedures, security services, and hygiene supplies.

We ask that the agency allocate the CARES Act funding and any further appropriations to cover not just rent backstops, but also critical health and safety costs incurred by providers. Providers also need funding support to replenish reserve for replacement funds released for non-traditional uses

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during the crisis. We also ask that HUD support further supplemental appropriations by Congress to help offset property costs needed to maintain safe and secure housing for older adults.

**5. Service Coordination Funds – Waive requirements of NOFA process to expeditiously and equitably allocate funds for Service Coordinator-specific costs**

Again, we support HUD’s efforts to allocate recently-appropriated funds for service coordination supports throughout the crisis. HUD should use the CARES Act funds to support service coordinator-related costs incurred, both past and ongoing, that are COVID-19-specific and that cannot be paid for with the \$1B PBRA and \$40M 202/PRAC funds in the CARES Act. This includes the cost of additional/expanded hours, supplies, remote work platforms specific to the service coordinator. HUD should also increase the per-unit per-month (PUPM) service fee to help providers off-set closures of community-based services that residents rely on.

In order to expeditiously and equitably allocate the funds, we ask that HUD utilize the regulatory waiver authority authorized by the CARES Act to bypass requirements associated with the regular NOFA process, and instead push out funds to existing service coordination programs, both budget-based and grant-funded, based on critical need. We also support the allocation of new service coordination grants with any remaining funds from the CARES Act or future supplemental appropriations.

**6. Income Certifications – Provide clarity on self-certifications and provide TRACS overrides**

We welcome HUD’s efforts to streamline the annual and interim income recertifications processes by allowing residents to electronically self-certify income adjustments significant enough to warrant a rent adjustment. With regard to self-certification, income verification, and rent determinations, we request that the agency provide further clarification on property owner and agent responsibilities, both current and when normal operations resume, to keep the tenant file up-to-date, TRACS information accurate, and subsidy payments correct.

HUD should also allow staff to utilize existing information to create a provisional annual recertification, while protecting residents from retroactive changes in provisional certifications that raise their tenant rent contribution. HUD should also provide an override to the 90% current status and 15-month requirement for recertification information in the Tenant Rental Assistance Certification System (TRACS) so that communities continue to receive housing subsidy payments.

**7. Electronic Files and Signatures – Waive future need for original documents and wet signatures**

While the recently-provided flexibility for electronic signatures and documentation is well received by housing practitioners across the country, HUD should allow recertifications to be processed by property staff and approved by HUD without the need for wet signatures or original documentation to be collected retroactively.

**8. Unit Turnover – Expedite, expand, and extend vacancy loss payments**

We are asking HUD to financially incentivize owners to prioritize the health of residents and the community. In order to preserve the health of new and existing tenants, HUD should issue a national policy that allows residents to elect to delay their scheduled move-in date due to COVID-19

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concerns without losing their place on waitlists or selection plans. To support owners, HUD should expedite the processing of special claims by owners experiencing extended vacancies; HUD should also offer parity between Section 8 and PRAC properties by increasing the current housing assistance payments for vacancy losses for PRAC properties to 80% of contract rent (from the current 50%), as well as extend the assistance payment to 120 days (from the current 60 days). HUD should also temporarily remove any penalties or consequences for extended vacancy rates.

#### **9. Unit Turnover – Waive eligibility requirements for vacancy loss payments**

HUD’s Office of Multifamily Housing should issue a consistent, national message to the field offices that even when a community institutes an admissions “freeze,” or if they hold a unit for someone who is unable or unwilling to move in during a stay-at-home order, the property should still be eligible for special claims for the vacancy. HUD should clarify to field offices that move-in freezes, either in response to local stay-at-home orders or proactively for health prioritization, does not mean that the property is not taking all necessary steps to lease-up the unit, therefore making them ineligible for the special claims.

#### **10. Accounts Receivable – Allow properties to claim assistance payments for “financial vacancies”**

We welcome HUD’s approach to allocate supplemental funds for increased subsidy payments when tenant rents go down as a result of income loss. However, this approach does not capture instances of tenant rent reductions that are not captured and offset by an interim income recertifications. Examples include when a resident is not able to make rent payments because they are using fixed income to stock up on health or food supplies for a quarantine; when a family member who provides food or transportation support is unable to assist due to the health emergency; or when a city or state issues a rent “forbearance” or longer-term evictions moratorium.

Although the property can place these residents on a repayment plan, the property will still forgo the payments in the short term. To help offset drops in property cash flow during this critical time, we ask that HUD expand the eligibility for special claims for vacancy loss to include a “financial vacancy” category, i.e. when a unit is occupied but payment is not flowing from either the subsidy or the tenant. The assistance payment could flow through the property’s voucher processing, and as the tenant repays their portion of the rent, the voucher would be credited by the property to even the balance sheet.

#### **11. Unit Turnover - Relax move-out timelines and extend subsidy payments**

HUD should relax requirements around tenants vacating units on certain timeframes, and also extend the subsidy payment period for instances in which the sole resident passes away, but family members are not able to pick-up belongings within 14 days.

#### **12. Capital Needs Assessments – Extend CNA deadlines or allow for provisional transactions approvals**

HUD should suspend required Capital Needs Assessments (CNAs) or extend the due dates for items that rely on CNAs, such as Budget-Based Rent Increase requests or RAD conversion filings, while provisionally approving such requests or transactions.

### **13. Management and Occupancy Reviews – Issue complete postponement of MORs**

HUD should issue a complete postponement of Management and Occupancy Reviews (MORs) and other ACC requirements. Because properties are taking extraordinary measures to maintain operations, not just in-unit reviews but also tenant file reviews should be postponed until property staff have the capacity and the ability to update file requirements, such as resident signatures and documents.

### **14. Incurred Costs – Expand eligible use categories and relax requirements around reserve accounts**

HUD should temporarily expand eligible use categories for applying operating funds, reserve for replacement accounts, and residual receipts to expenses incurred by COVID-19. In addition, HUD should instruct field offices to support suspensions of the monthly reserve for replacement deposit requirement, and allow properties instead to keep that money in the operating account for use on COVID-19 expenses without needing approval from HUD.

As a result, HUD should issue guidance in support of relaxing minimum levels for reserve for replacement and residual receipt accounts, and provide field office instructions for expedited processing of reserve release requests. Due to the crisis, these release requests should be permitted to occur more frequently than quarterly, and HUD should encourage field offices to issue instructions for submission.

### **15. Surplus Cash – Implement surplus cash flexibilities for delay projects and annual budgets**

HUD should take into consideration that any surplus cash that results from the aforementioned COVID-19 account flexibilities not be counted against properties when annual budgets are submitted. In addition, planned property projects utilizing surplus cash may not be able to be completed in a timely manner, and HUD should implement flexibility for residual receipt capture.

### **16. Loans and Grants – Issue guidance for secondary financing and mortgagee options**

HUD should issue guidance on secondary financing options that allow properties to accept disaster “loans” from the Small Business Administration to help with payroll costs, particularly because the “loan” acts as a grant doesn’t have to be repaid if the employees remain employed. HUD should also issue guidance on lending requirements and forbearance options.

### **17. Rental Assistance Demonstration – Extend Deadlines and Shift Onsite Requirements Online**

We support HUD’s efforts to streamline or adapt requirements for the RAD program that allow properties to meet outside deadlines for tax credits or other funding sources. In particular, we ask that HUD continue to provide flexibilities around in-person components of RAD transactions, including RAD for 202 PRACs, such as conducting site inspections or resident meetings virtually.

### **18. Fair Housing – Issue resident rights and responsibilities, and clarify owner obligations**

HUD’s Office of Fair Housing and Equal Opportunity should issue guidance, in conjunction with the Office of Multifamily Housing, clarifying the rights and responsibilities of residents related to COVID-

19. HUD should also make clear owner's fair housing obligations with regard to COVID-19, including for visitation policies, residents interactions, medical information, privacy laws, and civil rights.

**19. Access and Support – Coordinate with other agencies to increase access to services**

HUD should continue working with other agencies to help communities access cleaning, PPE, in-unit internet access, and other critical supplies and services needed to continue serving older adults. HUD should also issue support or guidance for owners to assist residents with food insecurity.