

MEMORANDUM

TO: Regional Steering Committee on Homelessness and Housing

FROM: HomeBase

RE: McKinney-Reauthorization Legislation and Federal Directions

DATE: April 17, 2009

Background:

The McKinney-Vento Homeless Assistance Act provides funding for the majority of homeless-targeted services and housing programs across the nation. The McKinney Act was originally enacted as an emergency response to the rapid rise in the number of Americans becoming homeless. Unfortunately, the emergency continues as even greater numbers of both urban and rural persons wind up on the streets, victims of a housing shortage and a poor economy. The legislative authority for four of the Act's HUD programs – Emergency Shelter Grant, Supportive Housing, Shelter Plus Care and Single Room Occupancy Dwellings – technically expired in 1995. These programs continue to serve increasing numbers of homeless persons and must be reauthorized. The McKinney-Vento Act has been a top-performing federal program, responsible for much of the success we have created as a nation on the issue of homelessness. Changes to this act would have consequences for many programs and agencies across the nation.

Various bills have been introduced to amend and reauthorize the 1987 McKinney-Vento Homeless Assistance Act, including the Reed Bill (S. 1518) -- Community Partnership to End Homelessness Act of 2007 -- the Carson Bill (H.R. 840) -- Homeless Emergency Assistance and Rapid Transition to Housing Act of 2007 and (H.R. 7211), which included components of both of the others. This past October, the House passed HR 7211 and the bill moved to the Senate as S. 1518, where it was put on hold and not picked up in the two subsequent Senate sessions.

On April 2, the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act (S. 808 / H.R. 1877) was introduced to the Senate and to the House of Representatives, which is virtually identical to H.R. 7211. The Senate bill (S. 808) was introduced by Senators Jack Reed (D-RI), Kit Bond (R-MO), and 11 other Senators. The House bill (H.R. 1877) was introduced by Representatives Gwen Moore (D-WI), Judy Biggert (R-IL), and five other House Members.

Some of the highlights are listed below, all of which are described in further detail in the following chart:

- The legislation expands the definition of homelessness to include those who are at imminent risk of homelessness (within 14 days) and, for a limited portion of Continuum of Care funds, those who are living unstably, including those who meet other Federal definitions of homelessness.
- The legislation includes re-housing as a new allowable activity.

- Families are included under the definition of chronic homelessness.
- The ESG component has been reconfigured to emphasize prevention and re-housing. Up to 40% of ESG funds can be used for prevention and re-housing, although funding for existing shelter operations will be held harmless.
- A Continuum of Care – now considered the Collaborative Applicant – can receive up to 3% of the total grant to cover the costs of overseeing the community planning process and ensuring HMIS participation. This percentage can increase to 6% if the CoC agrees to become a Unified Funding Agency and take on certain fiscal responsibilities.
- Continuum of Care project sponsors can use up to 10% (up from 5%) of their grant amount to cover administrative costs.
- Renewal of expiring contracts for leasing, rental assistance, or operating costs associated with permanent housing can be funded either through McKinney appropriations or through Section 8 Project-based Rental Assistance.

The chart below provides a summary, preparing the current law/practice with the proposed changes.

Issue	Current Law/Practice	McKinney Reauthorization (HR. 1877/S. 808)
Definition of who is homeless	<p>Statute: The following individuals are considered homeless according to 42 USC Sec. 11302:</p> <p>(1) an individual who lacks a fixed, regular, and adequate nighttime residence; and</p> <p>(2) an individual who has a primary nighttime residence that is:</p> <ul style="list-style-type: none"> • a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); • an institution that provides a temporary residence for individuals intended to be institutionalized; or • a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. <p>Practice: Under HUD practice, individuals and families who meet the following are considered homeless for McKinney programs:</p> <ul style="list-style-type: none"> • Living in places not meant for human habitation, • Living in emergency shelter, • Living in a Safe Haven, • Living in transitional housing and originally came from the streets or emergency shelter; 	<p>In general, the definition of who is homeless includes:</p> <ol style="list-style-type: none"> (1) an individual or family who lacks a fixed, regular, and adequate nighttime residence; (2) 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, airport, or camping ground. (3) an individual or family living in a supervised publicly or privately operated shelter designed to provide temporary living arrangements (including hotels or motels paid for by Federal, State, or local government programs for long-income individuals or by charitable organizations, congregate shelters, and transitional housing) (4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided. (5) An individual or family who: <ol style="list-style-type: none"> A. Will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by

	<ul style="list-style-type: none"> • Living in on the above places but temporarily for no more than 30 days in an institution • Being evicted within a week from a private dwelling unit and no subsequent residence has been identified and lack resources and support network needed to obtain housing. • Being discharged within a week from an institution (where a resident 30 or more consecutive days) and no subsequent residence has been identified and lack resources and support network to obtain housing. 	<ul style="list-style-type: none"> i. A court order resulting from an eviction action that notifies that individual or family that they must leave within 14 days ii. The individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days. iii. Credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible <p>B. Has no subsequent residence identified C. Lacks the resources or support networks needed to obtain other permanent housing</p> <p>(6) Unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes</p> <p>A. Have experienced a long-term period without living independently in permanent housing B. Have experienced persistent instability as measured by frequent moves over such period C. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or a youth with a disability, or multiple barriers to employment.</p> <p>In addition, any individual or family who is fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.</p>
<p>Definition of Who is Chronically Homeless</p>	<p>Not included in the current law. Defined administratively by the Interagency Council on Homelessness as an unaccompanied, homeless individual who:</p> <ul style="list-style-type: none"> • Has been homeless for more than a year or four times over a three year period • Is and has been living on the street or in an emergency 	<p>The term “chronically homeless” means – with respect to an individual or family, that the individual or family:</p> <ul style="list-style-type: none"> • Is homeless or lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter, • 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 1 year or on at least 4

	<p>shelter</p> <ul style="list-style-type: none"> Has a disabling condition, which could be a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions. 	<p>separate occasions in the last 3 years, and</p> <ul style="list-style-type: none"> Has an adult health of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of these conditions. <p>In addition, a person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described above.</p>
Definition of who is At-Risk	Definition is not included in current legislation.	<p>The proposed bill defines “at risk of homelessness” as an individual or family:</p> <ul style="list-style-type: none"> whose income is below 30% of AMI; who has insufficient resources immediately available to attain housing stability, and <ul style="list-style-type: none"> who has moved frequently because of economic reasons is living in the home of another because of economic hardship has been notified that their right to occupy their current housing or living situation will be terminated lives in a hotel or motel lives in severely overcrowded housing is exiting an institution or otherwise lives in housing that has characteristics associated with instability and an increased risk of homeless <p>This term includes all families with children and youth defined as homeless under Federal statutes.</p>
Continuum of Care Structure – Collaborative Applicant	Funds are currently distributed through local Continuums of Care, which is a group of providers, stakeholders, advocates, homeless persons, and others who participate in a community process of identifying local needs, priorities, and gaps in services. The CoC is not required to be an incorporated legal entity and cannot currently serve as a fiscal agent.	<p>The Collaborative Applicant is the entity (formerly the Continuum of Care) that:</p> <ul style="list-style-type: none"> designs a collaborative process for the development of an application, and for evaluating the outcomes of funded projects, in such a manner as to provide information necessary for the Secretary to determine compliance with program requirements and selection criteria and establish priorities for funding projects in the geographic area involved; participates in the Consolidated Plan for the geographic area served by the collaborative applicant; and ensures operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (HMIS).

		<p>A Collaborative Applicant is not required to be a legal entity.</p> <p>A Collaborative Applicant can also serve as a Unified Funding Agency that, in addition to performing the duties of the Collaborative Applicant, also receive from the Secretary and distributes funds for projects to be carried out by such other project sponsors. The Secretary has the authority to designate Unified Funding Agencies.</p> <p>A collaborative applicant that is either selected or designated as a Unified Funding Agency must:</p> <ul style="list-style-type: none"> • require each project sponsor to establish proper fiscal control and fund accounting procedures • arrange for an annual survey, audit, or evaluation of the financial records of each project
Authorized Appropriations	The current annual Homeless Assistance Grant funding is roughly \$1.6 billion.	A total of \$2.2 billion is authorized to be appropriated to carry out this title for fiscal year 2010 and such sums as may be necessary for 2011.
HMIS Participation	All ESG and Continuum of Care funded agencies must participate in HMIS	<p>All ESG and Continuum of Care funded agencies must participate in HMIS. The HMIS system must:</p> <ul style="list-style-type: none"> • collect unduplicated counts of individuals and families experiencing homelessness; • analyze patterns of use of applicable assistance provided for the geographic area involved; • provide information to project sponsors and applicants for needs analyses and funding priorities; and • be developed in accordance with standards established by the Secretary, including standards that provide for— <ul style="list-style-type: none"> ○ encryption of data collected for purposes of HMIS; ○ documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data; ○ access to HMIS data by staff, contractors, law enforcement, and academic researchers; ○ rights of persons receiving services under this title; ○ criminal and civil penalties for unlawful disclosure of data; and ○ such other standards as may be determined necessary by the Secretary.
Emergency Shelter/Solutions Grant (ESG)	<p>Currently named “Emergency Shelter Grant” Program.</p> <p>ESG monies are distributed according to a Federal allocation formula. ESG</p>	<p>Renamed “Emergency Solutions Grant” Program</p> <p>Up to 20% of the total amount allocated for ESG and Continuum of Care programs can be allocated to the Emergency Solutions Grant Program, as</p>

	<p>funding comprises 15% of annual McKinney-Vento appropriations. Current allowable uses:</p> <ul style="list-style-type: none"> • rehabilitation or remodeling of a building used as a new shelter • operations and maintenance of the facility • essential supportive services (i.e., case management, physical and mental health treatment, substance abuse counseling, childcare, etc.), • homelessness prevention, and • grant administration. 	<p>long as this allocation does not impact renewal activities. Shelter-related costs cannot exceed 60% of ESG funding or the level of funding expended in the prior year.</p> <p>Eligible ESG activities include:</p> <ul style="list-style-type: none"> • Renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters. • The provision of essential services related to emergency shelter or street outreach, as long as a) those services have not been provided by the local government during any part of the prior year or b) the use of assistance would complement the provision of those services • Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter. • Provision of rental assistance to provide short-term or medium-term housing to homeless or at-risk individuals or families. • Housing relocation or stabilization services for homeless or at-risk individuals or families, including housing search, mediation, credit repair, etc. <p>All ESG-funded agencies must participate in HMIS.</p> <p>Up to 7.5% of funds can be allocated to administration.</p>
Continuum of Care Programs: Structure and Basic Provisions	<p>Under current law, the Continuum of Care grants include three programs: Supportive Housing Program, Shelter Plus Care, and Section 8 SRO Moderate Rehabilitation. Each program has separate eligible activities, match requirements, and operating guidelines.</p>	<p>Under the proposed legislation, SHP, S+C, and Section 8 SRO Mod Rehab are combined into one Continuum of Care program, with one set of eligible activities, a single match requirement, and a unified set of operating rules.</p> <p>HUD is required to develop an appeals process for grantees (Collaborative Applicants or solo applicants)</p>
Continuum of Care Programs: Eligible Activities	<p>Eligible activities under the current McKinney-Vento Continuum of Care programs include:</p> <ul style="list-style-type: none"> • Construction, acquisition or rehabilitation of supportive housing • Leasing • Rental Assistance • Operating costs for supportive housing • Supportive services to homeless persons • HMIS – implementation and maintenance of system • Administration (no more than 5%) 	<ul style="list-style-type: none"> • Construction, acquisition or rehabilitation (No funding cap on capital costs) • Leasing of property, or portions of property, not owned by the recipient or project sponsor involved • Provision of rental assistance to provide transitional or permanent housing <ul style="list-style-type: none"> ○ Can be tenant-based, project-based, or sponsor-based. Will have 15-year grant term – first 5 years authorized under McKinney and assistance for the remainder of the term treated as a renewal of an expiring contract). ○ Rental assistance programs can be operated by local government, State government, or public housing authorities.

		<ul style="list-style-type: none"> • Operating costs (can be used for units assisted with grant funds or for the preservation of housing that will service homeless individuals and families and for which another form of assistance is expiring or no longer available. Initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under McKinney and assistance for the remainder of the term treated as a renewal of an expiring contract. • Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing. • Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities • Support for the activities of a collaborative applicant that is a legal entity, • Operation of and participation in HMIS • Payment of administrative costs to a collaborative applicant (not to exceed 3% of grant amount). • Payment of administrative costs to project sponsors (for which each project sponsor may use not more than 10 percent of the total project funds)
<p>Selection Criteria</p>	<p>Selection criteria are not explicitly spelled out in the current McKinney legislation. They are listed annually as part of the Notice of Funding Announcement.</p>	<p>The criteria used for determining which programs are selected for funding include:</p> <ul style="list-style-type: none"> • The previous performance of the recipient regarding homelessness, such as • The length of time that individuals and families remain homeless • The extent to which individuals and families who leave homelessness experience additional spells of homelessness • The thoroughness of grantees in reaching homeless individuals and families • Overall reduction in the number of individuals and families • Jobs and income growth for homeless individuals and families • Success at reducing the number of individuals and families who become homeless • Other accomplishments related to reducing homelessness • The quality of the plan of the recipient to reduce the number of people who become homeless, reduce the length of time that people

		<p>experience homelessness, and collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless. The plan should also include strategies for:</p> <ul style="list-style-type: none"> ○ Addressing the needs of all relevant subpopulations ○ Incorporate comprehensive strategies for reducing homelessness ○ Set quantifiable performance measures ○ Set timelines for completion of specific tasks ○ Identify specific funding sources for planned activities and ○ Identify an individual or body responsible for overseeing implementation of specific strategies <p>The methodology of the priority-setting process, including the extent to which it:</p> <ul style="list-style-type: none"> ○ Uses outcome data ○ Involves stakeholders from a range of people within the jurisdiction ○ Is based on objective criteria that are publicly announced ○ Is open to proposals from previously unfunded entities • The extent to which the amount of assistance to be provided will be supplemented with resources from other public and private sources, including mainstream resources • Level of coordination with other Federal, State, local, private and other entities serving individuals and families experiencing or at risk of homelessness in the planning and operation of projects • The goals and outcomes for projects serving families with children and youth, such as <ul style="list-style-type: none"> ○ Preventing homelessness for those who are at highest risk ○ Achieving independent living in permanent housing among families with children and youth who are at highest risk
Contract Renewal	Expiring contracts are currently renewed through McKinney appropriations.	Renewal of expiring contracts for leasing, rental assistance, or operating costs associated with permanent housing can be funded either through McKinney appropriations or through Section 8 Project-based Rental Assistance. Renewals shall be made on an annual basis but, in the case of project-based assistance, they can be made for terms of up to 15 years according to the discretion of the applicant and subject to the availability of appropriations.
Match Requirements	Under current legislation and practice for Continuum of Care programs, there	Continuums must demonstrate a match of 25% for all activities except leasing. This match will be

	are different match requirements for each eligible activity, including a range of 0-25% cash match, or 100% in-kind match.	calculated on a Continuum-wide, not project-by-project, basis. The match requirement can be satisfied by in-kind contributions as long as those contributions are supported by a Memorandum of Agreement indicating that the services will be provided.
Incentives	The current legislation does not contain incentives. HUD has used the Notice of Funding Availability process to establish incentives in other years.	<p><u>Incentives for High-Performing Communities:</u> Up to 10 communities will be designated as “high-performing” every year according to these indicators:</p> <ul style="list-style-type: none"> • The mean length of homelessness in that community is less than 20 days or 10% lower than the previous year • Of those leaving homelessness, fewer than 5% become homeless again, or the percentage who do decreases by 20% in the year • Community encourages homeless participation in services and includes them in HMIS • Service effectiveness • Effectiveness in reaching goals and outcomes that apply to families and youth defined as families under other Federal statutes. <p><u>Incentives for Effective Activities:</u> The proposed legislation empowers HUD to provide bonuses or other incentives for activities that have been proven to be effective at reducing and preventing homelessness, including:</p> <ul style="list-style-type: none"> • Permanent supportive housing for chronically homeless individuals and families • Rapid re-housing services, short-term flexible subsidies to overcome housing barriers, support services to increase income, and strategies for leveraging TANF • Any other activity determined by HUD to be effective <p>If any geographic area demonstrates that it has fully implemented any of the activities “proven effective” for all homeless individuals and families or for all members of the identified subpopulation, that area can receive the bonus but use it for any eligible activity.</p>
Set-Asides	Set-asides have been established through the Notice of Funding Availability process, such as the requirement that 30% of funds go to new permanent housing for individuals with disabilities or families with a disabled head of household.	<p><u>Permanent Housing for People with Disabilities:</u> No less than 30% of funding shall be used for permanent housing for homeless individuals with disabilities and homeless families with such an adult as head of household.</p> <p><u>Permanent Housing for Families with Children:</u> The proposed legislation requires that no less than 10% of the Continuum of Care grant amount be used for permanent housing for families with children.</p>

		<p>The base amount used for calculating these set-asides does not include renewal activities. Projects can help to meet both requirements at once: for instance, a program serving a family with children whose head of household is disabled would count toward both categories. These calculations are made on a national – not Continuum-level – basis.</p>
<p>Information Protection for Victim Service Providers</p>	<p>The current McKinney legislation does not address this issue; it arises from Violence Against Women Act (VAWA).</p>	<p>Proposed legislation requires HUD to instruct any victim service provider not to disclose personally identifying information about any client for the purposes of HMIS.</p> <p>Providers may be asked to disclose non-personally identifying information as long as that information has been de-identified, encrypted, or otherwise encoded.</p> <p>Nothing in the proposed legislation may supersede any prior law granting greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.</p>
<p>Other Provisions</p>	<p><u>Formula:</u> Funds are currently allocated according to the CDBG formula.</p> <p><u>Technical Assistance:</u> McKinney SHP legislation currently authorizes the use of McKinney funds for technical assistance activities. HUD has distributed technical assistance funding for homeless assistance grants through a NOFA process.</p>	<p><u>Formula:</u> The proposed legislation allows the HUD secretary to devise a new formula for allocation of Continuum of Care funds.</p> <p><u>Preventing Family Separation:</u> Any project sponsor receiving McKinney funds to provide emergency shelter, transitional housing or permanent housing to families with children under the age 18 shall not deny admission to any family based on the age of any child under age 18. The exception is that project sponsors operating transitional housing can target resources for families with children of a certain age if the transitional housing program has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group and provides assurances that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.</p> <p><u>Technical Assistance:</u> Technical assistance services can be made available to implement effective planning processes for preventing and ending homelessness, improving capacity to prepare collaborative applications, preventing the separation of families in emergency shelter or other housing programs, and adopting and providing best practices in housing and services for people who are homeless. No more than 1% of McKinney monies can be directed toward these expenditures.</p>
<p>Rural Homeless Assistance/Housing Stability Assistance</p>	<p>This program is currently named the Rural Homeless Assistance Program and is intended to serve as an alternative,</p>	<p>Under the proposed legislation, this program has been renamed the Rural Housing Stability Program.</p>

	<p>simpler process by which rural communities can apply for Continuum of Care funding. It has never been funded by Congress and thus has never been implemented.</p>	<p>The goals of the program are to rehouse or improve the housing situations of individuals and families who are homeless or in the worst housing situations; to stabilize the housing of individuals and families who are in imminent danger of losing housing; and to improve the ability of the lowest-income residents of the community to afford stable housing.</p> <p>Grants made under this program are made in lieu of grants made under the Continuum of Care program.</p> <p>Allowable activities include:</p> <ul style="list-style-type: none"> • Construction of new permanent or transitional housing units for at-risk or homeless individuals and families. • Acquisition and rehabilitation of a structure to provide supportive services, transitional or permanent housing – other than emergency shelter – to at-risk or homeless individuals and families • Property leasing for use in providing transitional or permanent housing or services to at-risk or homeless individuals and families • Rental assistance • Operating costs for housing provided under this bill <p>Required match is 25% for all activities except leasing.</p> <p>Adds the following the definition of rural area: “Any area or community, respectively, located in a state that has population density of less than 30 persons per square mile and of which at least 1.25 percent of the total acreage of such state is under federal jurisdiction, provided that no metropolitan city in such state is the sole beneficiary of grants.” (This would include Alaska, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, or Wyoming.)</p>
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