

MEMORANDUM

TO: Regional Steering Committee on Homelessness and Housing

FROM: HomeBase

RE: HEARTH Updates & Definitions

DATE: April 16, 2010

Background:

The Regional Steering Committee (“RSC”) regularly has discussed McKinney-Vento Homeless Assistance Act of 1987 (“McKinney”) reauthorization legislation, including during meetings in 1994 (July 14), 2000 (June 16), 2003 (November 21), 2005 (January 21, November 18), 2006 (January 20, July 7, September 29), 2007 (January 19, October 19), 2008 (April 18, January 25, October 18), and 2009 (January 23, April 17). More recently, the RSC has focused on the Homeless Emergency Assistance and Rapid Transition to Housing Act (“HEARTH”) signed into law on May 20, 2009. All RSC meetings since HEARTH was signed into law have included and will continue to include a HEARTH update:

RSC Discussion of HEARTH: 2009-2011 Schedule		
2009	<i>July 17, 2009</i>	<i>HEARTH in-depth look:</i> background, timeline, funding, CoC Program, ESG, admin/coordination, data, definitions
	<i>November 16, 2009</i>	Unified Funding Agencies
2010	<i>January 15, 2010</i>	Formula
	<i>April 16, 2010</i>	Definitions
	<i>July 23, 2010</i>	High-Performing Communities
	<i>October 2010</i>	Regulations (if published)
2011	<i>January 2011</i>	Topics may include the following: <ul style="list-style-type: none"> • CoC structure and admin/coordination • ESG • Program/system design • Performance measurement • CoC Program: grantee responsibilities
	<i>April 2011</i>	
	<i>July 2011</i>	
	<i>October 2011</i>	

As noted above, we reviewed HEARTH’s definitions-related sections on July 17, 2009¹ and proposed revisiting any updates related to it at a future meeting. The RSC has discussed federal homeless definitions at past RSC meetings, including in 2004 (July 30), 2005 (September 16,

¹ The RSC handout summarizing the HEARTH definitions changes is available on the HomeBase website under the July 17, 2009 RSC meeting: <http://www.homebaseccc.org> (listed under Hot Topics box at the far right, the Regional Steering Committee on Housing and Homelessness link, 2009 RSC Meetings and Materials, July 17 Meeting, Definitions link)

November 18), 2006 (July 7, September 29), 2007 (January 19), 2008 (January 25, April 18), and 2009 (January 23, April 17). Many of these have been within the context of McKinney reauthorization discussions.

Federal Definitions Recap:

U.S. Department of Housing & Urban Development (“HUD”):^{2,3}	U.S. Dept. of Education⁴
<p>“For purposes of this chapter, the term ‘homeless’ or ‘homeless individual or homeless person’ includes-</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> <p>A. 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);</p> <p>B. an institution that provides a temporary residence for individuals intended to be institutionalized; or</p> <p>C. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.”</p>	<p>“The term homeless children and youths’ —</p> <p>(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and</p> <p>(B) includes —</p> <p>(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;</p> <p>(ii) children and youths who have 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 (within the meaning of section 103(a)(2)(C));</p> <p>(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and</p> <p>(iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).”</p>

² HUD lists the United States Code definition contained in Title 42, Chapter 119, Subchapter I. HUD’s website currently lists the federal definition of homelessness as the original McKinney definition and does not reflect any changes due to HEARTH: <http://portal.hud.gov/portal/page/portal/HUD/topics/homelessness/definition>

³ According to the Co-Occurring and Homeless Activities Branch website (<http://chab.samhsa.gov/super/chab/faq.aspx>), the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) uses the same definition as HUD. Note that “PATH uses a slightly different definition of ‘homeless’ set forth by the Public Health Services Act. The Act states that the term ‘homeless individual’ refers to ‘an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing’ (Part C, Section 330 [h][5], as amended 2003).” (Co-Occurring and Homeless Activities Branch website: <http://chab.samhsa.gov/super/chab/faq.aspx>)

⁴ The U.S. Department of Education uses the definition from Subtitle B of Title VII of McKinney (Title X, Part C, of the No Child Left Behind Act). The definition is available on the U.S. Department of Education website at <http://www2.ed.gov/policy/elsec/leg/esea02/pg116.html#sec725>.

HEARTH-Related Updates: GAO Studies, Interagency Council, and HUD

U.S. Government Accountability Office (“GAO”)

HEARTH instructs the GAO to prepare studies of homelessness and homeless assistance in rural areas, and administrative costs related to the Emergency Solutions Grant Program (“ESG”). A GAO staff member stated that the rural homelessness report likely would not be published by May 20, 2010, but rather in the summer.⁵ The rural study will be looking at the following:

- Characteristics of rural homeless
- Assistance available to serve
- Funding differences between urban and rural areas⁶

The GAO staff member did not provide information on whether the study will mention federal definitions of homelessness or rural homelessness.⁷ However, the staff member noted that an earlier GAO report discussed that rural homeless definitions were not consistently used and that the GAO did not make any recommendations in the earlier report.⁸

The GAO staff member stated that the report on ESG administrative costs would be released by May 20, 2010.⁹

The GAO also is conducting a study on the federal definitions of homelessness.¹⁰ The GAO conducted weeklong site visits or meetings in four locations with a number of providers and federal agencies they identified as being helpful.¹¹ The GAO considered coming to San Francisco for one of the site visits, but decided on Los Angeles instead.¹² The GAO is taking the input they’ve gained from the site visits and currently drafting a report.¹³ The GAO staff members expect the report to be released in the summer, likely between the end of June and July.¹⁴ The report’s objectives include the following:

- Data issues (e.g., impacts of definition changes)
- Literature review (e.g., on the causes of homelessness)
- Barriers to serving the homeless
- Federal collaboration¹⁵

One of the GAO staff members did not respond to a question on whether the report would consider potential impacts on existing funding streams if definitions were changed, but noted that the GAO is very careful about making recommendations.¹⁶ The staff member stated that the GAO does not make recommendations unless it has strong supporting evidence to do so.¹⁷

⁵ HomeBase Staff Attorney Joni Canada conducted a phone interview with a GAO staff member on April 15, 2010.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* and HomeBase Staff Attorney Joni Canada conducted a phone interview with a GAO staff member on January 20, 2010.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 5

¹⁶ *Id.*

¹⁷ *Id.*

U.S. Interagency Council on Homelessness (“Interagency Council”)

HEARTH directs the Interagency Council to have an extensive meeting to discuss topics including whether to change the homelessness definition and whether there is a “compelling need” for a uniform federal definition of homelessness. HEARTH indicates under the Interagency Council’s duties that it must convene the meeting no later than six months after the GAO study on federal definitions is completed. The Interagency Council has not announced publicly plans or timing for any such meeting at this time.

HEARTH requires the Interagency Council to create a National Strategic Plan to End Homelessness (“Federal Strategic Plan”), make it available for public comment, and submit it to the President and Congress by May 20, 2010. Stakeholders were invited to provide input and at least some responses discussed definition issues.¹⁸ The Interagency Council has held strategic planning sessions in a number of areas, including in Los Angeles (February 2010) and the San Francisco Bay Area (March 2010). Federal definitions were explicitly addressed at neither the Los Angeles, nor San Francisco Bay Area planning sessions.¹⁹ However, Interagency Council staff stated at a March 2010 work group on homeless youth that they wanted to avoid discussing definitions, although many participants noted that definitions changes and potential impacts of any changes are core issues. The staff present said the Interagency Council plan likely will not include specific definitions or resolve the federal definitions debates, but left open the possibility that a section of the plan may mention the definitions issue.²⁰

The Interagency Council Executive Director, Barbara Poppe, has noted in recent speeches under a point about HEARTH implementation that “[t]here will be ... a broader definition of who can benefit from these resources.”²¹ Otherwise, federal definitions and any changes to them have not been mentioned.

HUD

HUD has until November 20, 2010 to issue regulations providing sufficient guidance to recipients of the Emergency Solutions Grant (“ESG”), Continuum of Care, Rural Housing Stability Assistance Programs’ funds to allow uniform and consistent implementation of the homelessness definition requirements. HUD has not yet announced a timeline for publicly releasing draft regulations.

HUD is in the process of creating a FY 2010-2015 Strategic Plan (“HUD Strategic Plan”). HUD has posted draft mission statement, vision statement, and goals and sub-goals on its website and

¹⁸ See e.g., the National Network to End Domestic Violence (see section 1 on definitions):

<http://npach.org/NNEDV%20Strategies%20for%20Ending%20Homelessness%20-%20Families%20with%20Children%20Workgroup.pdf>. See also a response available at <http://fsp.uservoice.com/forums/42085-how-can-we-prevent-and-end-homelessness-for-single/suggestions/529629-ich-should-advocate-with-congress-to-change-ssa-s->

¹⁹ HomeBase staff (Marty Fleetwood, Stacey Murphy, and Danielle Wildkress) were present at the San Francisco session. HomeBase Staff Lawyer Danielle Wildkress was present both sessions.

²⁰ HomeBase Staff Attorney Jason Satterfield was present at this session.

²¹ Recent speeches by USICH Executive Director Barbara Poppe at the NAEH National Conference, HUD-VASH Conference, and Homeless State Education Coordinators Conference. Text available on the Interagency Council website at <http://www.ich.gov/>.

currently is soliciting feedback on them.²² None of these explicitly mention federal definitions. The HUD Strategic Plan goals and sub-goals that may be most relevant to the RSC’s work include the following:

- “Goal 2: Promote affordable rental housing”²³
- “Goal 3: Utilize housing as a platform for improving quality of life”²⁴
 - All sub-goals, including sub-goal “3D: Provide housing and social stability for the homeless and those at risk of being homeless”²⁵

Potentially Related Funding Opportunities & Impacts on Continuums

HUD’s Congressional Justifications for Fiscal Year (“FY”) 2011 Budget Estimates mentions two new opportunities under the Housing and Services for Homeless Persons Demonstration²⁶ that may provide funding for those who would be “homeless” under expanded federal homelessness definitions:

- *Initiative 1 (Individuals with special needs who are homeless or at risk of homelessness):* “This HUD-HHS demonstration would combine Housing Choice Vouchers with health, behavioral health and other support services to move and maintain up to 4,000 chronically homeless individuals with mental and substance use disorders into permanent supportive housing. The demonstration will target low- income, single, childless adults who are homeless and who are already enrolled in Medicaid through coverage expansion under 1115 waivers or state only initiatives. Eligible individuals will receive a housing voucher through public housing agencies (PHAs) to provide subsidized access to permanent housing and health and behavioral health services through their existing Medicaid eligibility. In addition, HHS will partner with HUD to leverage grants administered by the Substance Abuse and Mental Health Services Administration to provide wraparound support to promote housing stability and improvements in health outcomes for this population. The process for designing the competitive process and selecting eligible PHAs will be a joint effort between HUD and HHS. In addition, a key element of the effort will be a joint evaluation by HUD and HHS to determine: (1) the cost savings in the healthcare and housing systems of the proposed approach; (2) the efficacy of replication; and (3) the appropriate cost-sharing among Federal agencies for underwriting services that increase housing stability and improve health and other outcomes.”²⁷
- *Initiative 2 (Families with children who are homeless or at risk of homelessness):* “This initiative establishes a mechanism for HUD, HHS and the Department of Education (DOE) programs to be more fully engaged in stabilizing homeless families, ultimately resulting in reducing the costs associated with poor school performance and poverty. This initiative strategically targets these resources to: (1) identify families who are homeless or at risk of homelessness, (2) intervene with the appropriate array of housing assistance, income supports, and services to ensure that the family does not fall into the shelter system or onto

²² HUD website, FY 2010-2015 Strategic Plan section:

http://portal.hud.gov/portal/page/portal/HUD/program_offices/cfo/stratplan

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ See HUD FY 2011 Budget: Congressional Justifications for 2011 Estimates, Tenant-Based Rental Assistance (Includes Housing and Services for Homeless Persons Demonstration), p. 21-23, available at

<http://hud.gov/offices/cfo/reports/2011/cjs/tenant-based-assistance2011.pdf>

²⁷ *Id.*

the street (or if already homeless that the family is stably housed and does not return to homelessness), and (3) provide the tools necessary to assist the family to build on its resources to escape poverty and reach its highest possible level of self-sufficiency....HUD will make available a minimum of 6,000 Housing Choice Vouchers on a competitive basis. Designing the competitive process and selecting eligible PHAs will be accomplished jointly by HUD, HHS and DOE. State level voucher agencies and local PHAs will submit proposals for the new vouchers. In order to ensure place-based targeting, winning proposals will have to show that the new vouchers are being targeted to communities with high concentrations of homeless families. In addition, to qualify for the new rental assistance vouchers, applicants will need to show that they have designed a well-coordinated and collaborative program with the TANF agency, the local public schools, and other community partners (e.g., Head Start, child welfare, substance abuse treatment, etc.). With guidance from HHS, states will need to demonstrate how they will integrate HUD housing assistance with other supports these families will need to stabilize their housing situation, foster healthy child development, and prepare for, find, and retain employment. States will need to show how the HUD housing assistance will be integrated with the Temporary Assistance for Needy Families (TANF) program as well as child care, child welfare, health care, employment/job training, substance abuse treatment and other services that can be critical to helping families support children and make ends meet. HHS will provide guidance to state TANF agencies and other relevant programs to explain this initiative and their role in both the application for the vouchers and the implementation of the program. The guidance will also address the ways in which PHAs, states and communities can integrate housing assistance and other supports for families at risk of homelessness even in the absence of being awarded additional housing vouchers through this project. DOE will assist with identifying at-risk families with children through their network of school based homelessness liaisons, and providing basic academic and related supports for the children.”²⁸

Beyond the funding opportunities noted above, it is not clear whether additional funding beyond existing sources would be available to serve those who would be classified as “homeless” under a uniform and expanded federal definition of homelessness. As result, Continuums should review their current funding allocations and continue to reassess these with local priorities in mind.

Discussion Questions:

(1) Has your community considered whether it would like to allocate existing funding to those who would be considered homeless under other federal (non-HUD) homelessness definitions?

²⁸ See HUD FY 2011 Budget: Congressional Justifications for 2011 Estimates, Tenant-Based Rental Assistance (Includes Housing and Services for Homeless Persons Demonstration), p. 21-23, available at <http://hud.gov/offices/cfo/reports/2011/cjs/tenant-based-assistance2011.pdf>

- (2) Have you provided input to HUD regarding their Strategic Plan? To the Interagency Council on the Federal Strategic Plan? If so, please share the input you provided and input you'd like to provide in the future. If not, please let us know if you'd like the RSC to provide additional input to them.*
- (3) What input, if any, would you like to give to the GAO regarding their federal definitions study or any other upcoming ones?*
- (4) Is your community interested in applying for the Housing and Services for Homeless Persons Demonstration Program? Which initiative? Or both?*

*Please contact Joni Canada, HomeBase Staff Attorney,
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