

**Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (The HEARTH Act):  
Big Changes on the Forefront**

**Continuum of Care Program**

| Issue   | What's Changed?  | RSC Position   | Key Concerns                                       |
|---|--|--|--|
| <b>Structure and Basic Provisions</b>                 | Under the 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.   | Supports funding structure. The funds can be consolidated into one single program for clarity and consistency.   |  |
| <b>Eligible Activities and Applicable Limitations</b> | <p>Eligible program activities under HEARTH include acquisition, rehabilitation, construction, leasing, rental assistance, operating costs, supportive services, re-housing services, and HMIS. Key differences include:</p> <ul style="list-style-type: none"> <li>• <i>No cap on Acquisition/ Rehabilitation/ Construction Awards:</i> Currently, they have a cap of \$400,000.</li> <li>• <i>Rental Assistance Administration:</i> PH Rental Assistance must be administered by a State, unit of general local government or public housing agency.</li> <li>• <i>Addition of Re-housing services:</i> Re-housing services include any of the following: 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, and other such activities.</li> <li>• <i>Staff training:</i> HUD may allow reasonable costs associated with staff training</li> </ul> <p>For Collaborative Applicants (formerly the Continuum of Care) eligible activities include:</p> <ul style="list-style-type: none"> <li>• <i>If it is a Legal Entity:</i> HMIS operation and support and Administrative Costs related to the CoC application, program evaluation and Con Plan participation</li> <li>• <i>If it is a Unified Funding Agency</i> (a Collaborative Applicant that has taken on additional responsibilities): Additional Administrative Costs related to fiscal and fund accounting, audits, monitoring, etc.</li> </ul> | <p>Support. RSC members have encouraged maximum flexibility with respect to eligible activities to allow communities to respond to their specific needs. However, RSC has argued in favor of a limit on capital costs to support housing development – which was removed in HEARTH. In addition, RSC has argued against phasing out funding for supportive services.</p> | <p>Need additional funding for new activities.</p> |

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| <b>Administrative Costs</b> | HEARTH makes the following administrative funds available: <ul style="list-style-type: none"> <li>• <i>Project sponsors</i>: Can now receive 10% of the total funds made available to that project sponsor (up from 5%)</li> <li>• <i>Collaborative Applicants (that are legal entities)</i>: Can now receive 3% of total funds for geographic area (none provided before)</li> <li>• <i>Collaborative Applicants that are Unified Funding Agencies</i>: Can receive an additional 3% of total funds for geographic area.</li> </ul>  | Support. RSC members have historically requested the increase in the administrative costs to 10%. | If additional funding is not provided for administrative costs, it is essentially a reduction from the grant.              |
| <b>Match Requirements</b>   | <p>Under current legislation and practice for Continuum of Care programs, there are different match requirements for each eligible activity, including a range of 0-25% cash match, or 100% in-kind match.</p> <p>Under HEARTH, Continuums must demonstrate a match of 25% for all activities except leasing which has no match requirement. This match will be calculated on a Continuum-wide, not project-by-project, basis. The match requirement can be satisfied by in-kind contributions as long as a Memorandum of Agreement indicating that the services will be provided supports those contributions.</p> | Support. One consistent match requirement will make it easier to apply for and administer grants. | Regulations should specify what documentation needed to prove match requirements met; instead of finding out during audit. |

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| <p><b>Eligible Participants</b></p> | <p>HEARTH modified/expanded the definition of homeless and who can be served by programs. (See “Definitions” chart.)</p> <p>In addition, a Collaborative Applicant may use up to 10% of its CoC’s total funds to serve unaccompanied youth, families, and children defined as homeless in other Federal statutes if it demonstrates that using the funds in this way is of:</p> <ul style="list-style-type: none"> <li>• Equal or greater priority AND</li> <li>• Equally or more cost-effective in meeting the overall plan goals and objectives</li> </ul> <p>This limitation does not apply to Collaborative Applicants that have a homelessness rate of less than 0.10% of their total population.</p> <p>Designated high-performing communities (see Administration and Coordination) may also provide services to those at-risk of homelessness.</p> <p>Recipients receiving project-based or sponsor-based PH may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.</p> | <p>Support IF this means existing projects can expand their service pool, but not if</p> |              |

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| <p><b>Grant Terms and Contract Renewal</b></p> | <p><u>Permanent housing for leasing/ rental assistance/operations:</u></p> <ul style="list-style-type: none"> <li>• <i>New project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts</i> may have a 15-year initial term at recipient discretion with the first 5 years funded through CoC appropriations, next 10 years can be funded either through CoC appropriations or through Section 8 Project-based Rental Assistance</li> <li>• <i>Renewals</i> of expiring contracts for PH leasing, rental assistance, or operating costs can be funded either through McKinney-Vento Housing Assistance appropriations or through Section 8 Project-based Rental Assistance               <ul style="list-style-type: none"> <li>○ <i>Tenant-based assistance:</i> successive 1-year terms</li> <li>○ <i>Project-based assistance:</i> successive terms up to 15 years subject to the applicant's discretion and annual appropriations.</li> <li>○ HUD will approve renewals based on need and program/housing quality compliance.</li> </ul> </li> </ul> <p><u>Grant renewal amounts (PH leasing, operations, or rental assistance):</u> HUD will make adjustments proportional to increases in the fair market rents in the geographic area, expanding the S+C FMR increases to all PH activities.</p> <p><u>Grant term (New PH):</u> HUD may impose minimum grant terms of up to 5 years for new projects providing permanent housing.</p> | <p>Support. RSC members have historically encouraged the use of other funding, such as Section 8, in order to allow for additional new projects to be funded with McKinney funds. However, such a mechanism must be supported by additional funds; this funding mechanism should not take away from existing Section 8 programs.</p> |              |

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| <b>Obligation/<br/>Receipt of<br/>funding/<br/>Timing</b> | <p>Under HEARTH,</p> <ul style="list-style-type: none"> <li><i>Within 9 months of award announcement (generally):</i> Recipient must meet all requirements for the obligation of funds, including site control, matching funds, and environmental review requirements</li> <li><i>Acquisition/rehabilitation/construction projects:</i> Must meet the requirements stated above within 24 months</li> <li>HUD can grant an extension if delay was beyond the reasonable control of the recipient.</li> </ul> <p>(HUD must obligate funds within 45 days of the date the recipient meets its requirements. Grantees are required to distribute funds within 45 days after the sponsor's request.)</p>                               |              |              |
| <b>Funding<br/>recapture</b>                              | <p>An Acquisition, Rehabilitation, or Construction project that ceases to operate within 15 years of award, must repay according to a new schedule (was a 20 year schedule before), except under certain circumstances.</p>  |              |              |
| <b>Set-Asides/<br/>Formula</b>                            | <p><i>Set-asides:</i> HEARTH sets aside funds as follows:</p> <ul style="list-style-type: none"> <li>Except under certain circumstances, at least 30% of CoC and ESG funds (but not counting Permanent Housing renewals) must be used for permanent housing for homeless disabled individuals or families. This does not apply if there aren't enough funds to cover renewals for one year, or if the HUD goal of 150,000 new units has been reached.</li> <li>At least 10% of the CoC and ESG funds must be used for permanent housing for homeless families.</li> </ul> <p><i>Formula:</i> HEARTH states that HUD shall develop a formula within the next two years to allocate funds, as opposed to using the CDBG formula.</p> |              |              |

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| <b>Incentives</b> | HEARTH creates several types of incentives. <ul style="list-style-type: none"> <li>• Incentives for High-Performing Communities (discussed in Admin/Coordination)</li> <li>• Incentives for Proven Strategies: HUD can provide bonuses or other incentives for use of activities that have been proven to be effective at reducing homelessness generally or for a specific subpopulation (e.g. PSH for CH, flexible subsidies for families, etc.)</li> </ul> | Support for Samaritan Bonus. RSC members recognize the importance of the Samaritan Bonus funding for the creation of new permanent housing. However, members have asked for greater flexibility with respect to the use of the funds. In addition, for smaller Continuums, the Bonus should be structured in a way that can be meaningfully implemented, supporting more than just one unit. |                     |
| <b>Research</b>   | \$8,000,000 authorized for each of fiscal years 2010 and 2011, for research into the efficacy of interventions for homeless families.   |  |                     |

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| <b>Rural Homeless Assistance/ Housing Stability Assistance</b> | HEARTH includes a Rural Homeless Assistance program, pursuant to which grants can be made in lieu of Continuum of Care grants. Rural areas have more flexibility to serve people at risk of homelessness or in sub-standard housing. Rural areas are defined in a very limited way to be: (a) an area that is not part of a standard metropolitan statistical area, (b) an area that is part of a metropolitan statistical area and is in a county where at least 75% of the population is rural or (c) an areas in a states with low population density and large areas under federal jurisdiction (not California). |              |              |

**Discussion Questions**

- (1) HEARTH increases the amount of administration funding available, both for projects and communities, but we do not yet know if more funding will be available. How will your CoC approach the balance between the need for administrative funds and the need for program activities?
- (2) Under HEARTH, Collaborative Applicant may use up to 10% of its CoC's total funds to serve unaccompanied youth, families, and children defined as homeless in other Federal statutes if it demonstrates that using the funds in this way is of:
  - (a) equal or greater priority and (b) equally or more cost-effective in meeting the overall plan goals and objectives. Is this something your CoC would consider? Under what circumstances? Why or why not?
- (3) Under HEARTH, permanent housing may renew out of the Section 8 Project-Based Rental Assistance account. Under what circumstances would this be positive for your community? What do you want to see in HUD's regulations related to this possibility?

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