

**McKINNEY-VENTO HOMELESS ASSISTANCE ACT
SIDE-BY-SIDE
OCTOBER 24, 2008**

- Definition of Homelessness
- Use of Funds for Permanent Housing
- Distribution of Funds
- Interagency Coordination
- Prevention
- Rural Homelessness

Policy	Current Practice	H.R. 7221, Homeless Emergency Assistance and Rapid Transition to Housing Act of 2008 (as passed the House of Representatives, October 2, 2008)	S. 1518, Community Partnership to End Homelessness Act (as marked up by Senate Banking Committee, September 19, 2007)
<i>Definition of Homelessness</i>			
Definition of homeless individual	<p>“A person is considered homeless only when he/she resides in one of the three places described below. For new and renewal projects, persons assisted with permanent housing must be homeless and come from:</p> <ol style="list-style-type: none"> 1. places not meant for human habitation, such as cars, parks, sidewalks, and abandoned buildings; 2. an emergency shelter; 3. or transitional housing for homeless persons and who originally came from the streets or emergency shelter.”¹ <p>The statutory definition of homelessness in the McKinney-Vento Act does not mandate the inclusion of people living in doubled-up situations and people living in motels.² HUD</p>	<p>Sec. 3 adds individuals or families that lack a fixed, regular, or adequate nighttime residence. Furthermore, the bill adds persons living in a motel, or hotel due to the lack of alternative adequate accommodations. If an individual or family has no residence identified or lacks the resources or support networks needed to obtain other permanent housing, they are considered homeless.</p> <p>The bill also adds individuals or families that: will imminently lose their housing, whether they rent, own, or live in without paying rent, are sharing with others, as evidenced by a court order resulting from an eviction action that they must leave within 14 days; the individual or family having a primary nighttime residence that is a hotel or</p>	<p>Sec. 3 adds as homeless a household that: is living in hotels or motels paid for by Federal, State or local government programs or by charitable organizations and those living in hotels or motels because they do not have the resources for a safe and decent housing units. The latter must also have changed primary residences 3 or more times in the past year or 2 or more times in the past 21 days, and be unable to pay for the hotel/motel room for more than a short period of time.</p> <p>Also added to the definition of homeless are households that: have a primary residence that is owned or leased by another person because the family lacks the resources necessary to rent a decent and safe housing</p>

¹ HUD Questions and Answers, A supplement to the 2007 Continuum of Care NOFA and Application, p.6, <http://www.hud.gov/offices/adm/grants/nofa07/cocqa.doc>
² 42 U.S.C. § 11302

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
--------	------------------	---------------------	------------------

Definition of homeless individual (cont.)	has consistently interpreted the statute as excluding this population. Projects providing transitional housing, non permanent housing Safe Havens and Supportive Services Only may serve populations facing eviction within a week or those within a week of being discharged from an institution where they have lived for more than 30 consecutive days without sufficient resources to obtain housing ³ .	<p>motel room and they lack the resources to reside there for more than 14 days; indication by the owner or renter of the house that the individual or family will not be allowed to stay for more than 14 days.</p> <p>Also added to the definition are unaccompanied youth and homeless families with children who: have experienced a long-term period without living independently in permanent housing; have experienced persistent instability measured by frequent moves over a period of time; can be expected to continue in such a 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 youth with a disability, or multiple barriers to employment.</p> <p>There is also language that adds individuals or families that are fleeing, or attempting to flee, domestic or dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in their current housing situation.</p>	units, <i>and</i> have been notified by the owner or renter of the household that the family may only stay for a short period of time, <i>and</i> have changed primary residences 3 or more times in the past year or 2 or more times in the past 21 days, <i>and</i> are unable to make significant financial
Definition of homeless	An individual is considered homeless and disabled if that individual meets	Sec. 401 codifies a definition of “homeless individual with a disability.”	Sec. 401 codifies a definition of “homeless individual with a

³ HUD Questions and Answers, A supplement to the 2007 Continuum of Care NOFA and Application, p.7, <http://www.hud.gov/offices/adm/grants/nofa07/cocqa.doc>
National Low Income Housing Coalition Housing Plus Services Committee

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
individual with a disability	<p>HUD’s definition of homelessness <i>and</i> is determined to:</p> <p>“(1) Have a physical, mental or emotional impairment that:</p> <ul style="list-style-type: none"> (i) Is expected to be of long-continued and indefinite duration; (ii) Substantially impedes his or her ability to live independently; <p>and</p> <ul style="list-style-type: none"> (iii) Is of such a nature that the ability could be improved by more suitable housing conditions; or <p>(2) Have a developmental disability, as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-6007)⁴</p> <p>“Written documentation that a homeless person’s disability meets the [permanent housing] program definition must come from a qualified source, such as a credentialed psychiatrist or other professional trained to make such a determination.”⁵</p>	<p>The definition includes “a physical, mental or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury.”</p> <p>Furthermore, the definition includes “the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.”</p>	<p>disability.” The definition includes a physical, mental or emotional impairment, including an impairment caused by alcohol or drug abuse, a developmental disability or a disease of acquired immunodeficiency syndrome.</p>
Definition of chronic homelessness	<p>Since 2003, HUD has employed a definition of chronic homelessness with both a disability and duration requirement, “an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more OR has had at least four (4) episodes of homelessness in the past three (3) years. Disabling condition is defined as ‘a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability,</p>	<p>Sec. 401 codifies HUD’s definition of “chronic homelessness” and adds families where the head of household has a disability and the household meets the criteria to be considered chronically homeless. The head of household can be an unaccompanied youth.</p> <p>Also added to the definition are persons who reside in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility,</p>	<p>Sec. 401 codifies HUD’s definition of “chronic homelessness” and adds families where the head of household has a disability and the household meets the criteria to be considered chronically homeless. The head of household can be an unaccompanied youth.</p> <p>Also added to the definition are persons who reside in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other</p>

⁴ 24CFR91.5

⁵ HUD Questions and Answers, A supplement to the 2007 Continuum of Care NOFA and Application, p.9, <http://www.hud.gov/offices/adm/grants/nofa07/cocqa.doc>
National Low Income Housing Coalition Housing Plus Services Committee

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
--------	------------------	---------------------	------------------

	<p>including the co-occurrence of two or more of these conditions.”⁶ “To be considered chronically homeless, persons must have been sleeping in a place not meant for human habitation (i.e. living on the streets) and/or in an emergency homeless shelter during that time.”⁷</p> <p>A chronically homeless person must be unaccompanied and disabled during each episode.⁸</p>	<p>has resided there for fewer than 90 days, and met all of the criteria to be considered chronically homeless prior to entering the facility.</p>	<p>similar facility, has resided there for fewer than 90 days, and met all of the criteria to be considered chronically homeless prior to entering the facility.</p>
--	---	--	--

Use of Funds for Permanent Housing

<p>Supportive Housing Program (SHP)</p>	<p>Permanent housing for persons with disabilities is an eligible use of HUD’s Supportive Housing Program (SHP). Both renewal and new SHP projects can be counted toward meeting HUD’s requirement of a 30% permanent housing set-aside.⁹</p>	<p>Sec. 3 consolidates SHP into the “Continuum of Care Program.” Permanent housing is an eligible use of these funds. Under Sec. 423, the Secretary may impose minimum grant terms of up to 5 years for new projects involving permanent housing.</p> <p>It is not required that a person be disabled in order to receive permanent housing.</p>	<p>Sec. 422 consolidates SHP into the “Community Homeless Assistance Program.” Permanent housing for individuals and families is an eligible use of these funds and it is not required, as it was under SHP, that a person be disabled in order to receive permanent housing.</p>
<p>Permanent Housing through HUD’s Shelter Plus Care (S+C)</p>	<p>The S+C Program provides funding for rental housing for persons with disabilities. Grantees are required to couple housing with appropriate supportive services.</p>	<p>Sec. 3 of HEARTH repeals HUD’s S+C Program and consolidates those eligible activities into the “Continuum of Care Program”.</p>	<p>Subtitle C of CPEHA repeals HUD’s S+C Program and adds those eligible activities to the “Community Homeless Assistance Program”.</p>

⁶ HUD 2007 Notice of Funding Availability, 72 FR 11744, 11754

⁷ HUD 2007 Notice of Funding Availability, 72 F.R. 11744

⁸ HUD Questions and Answers, A supplement to the 2007 Continuum of Care NOFA and Application, p. 8, <http://www.hud.gov/offices/adm/grants/nofa07/cocqa.doc>

⁹ HUD 2007 Notice of Funding Availability, 72 FR 11754

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
--------	------------------	---------------------	------------------

Program			
Permanent Housing Set-Aside	<p>“Local priorities notwithstanding, the FY 2007 HUD Appropriations Act requires that not less than 30% of [2007] Homeless Assistance Grants appropriation, excluding amounts provided for one-year renewals under the Shelter Plus Care Program, must be used for permanent housing projects.”¹⁰</p>	<p>Sec. 428 sets forth a minimum allocation for permanent housing for homeless individuals and families with disabilities. Thirty percent of the sums made available to carry out the Emergency Solutions Grants Program and the Community Homeless Assistance Program” for that fiscal year must be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.”</p> <p>Sec. 428 also sets forth a minimum allocation for permanent housing for homeless families with children of not less than 10%.</p>	<p>Sec. 428 sets forth a minimum allocation for permanent housing for homeless individuals and families with disabilities. Thirty percent of the sums made available to carry out the Emergency Solutions Grants Program and the Community Homeless Assistance Program” for that fiscal year must be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.”</p> <p>Sec. 428 also sets forth a minimum allocation for permanent housing for homeless families with children of not less than 10%.</p>
<p>Targeting to the chronically homeless</p> <p>Targeting to the chronically homeless (cont.)</p>	<p>“To help ensure the elimination of chronic homelessness, HUD has implemented a requirement that at least 10 % of the [McKinney Vento] appropriation be awarded to housing projects that predominantly serve individuals who are chronically homeless. At least 10 % of the appropriation will be awarded to new or renewal transitional or permanent housing projects where at least 70 % of the project’s clients will be chronically homeless. Housing projects include: SHP Transitional Housing, Permanent Housing and</p>	<p>The Secretary must provide bonuses to communities using funding for activities that have been proven to be effective at reducing homelessness generally, or reducing homelessness for a specific population. These are called “incentives for proven strategies.”</p> <p>Permanent housing for the chronically homeless individuals or families is one of the proven strategies.</p> <p>Communities that have funded permanent housing for chronically homeless people are allowed to use</p>	<p>The Secretary must provide bonuses to communities using funding for activities that have been proven to be effective at reducing homelessness generally, or reducing homelessness for a specific population. These are called “incentives for proven strategies.”</p> <p>Permanent housing for the chronically homeless individuals or families is one of the proven strategies.</p> <p>Communities that have funded</p>

¹⁰ HUD 2007 Notice of Funding Availability, 72 FR 11745
National Low Income Housing Coalition Housing Plus Services Committee

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
--------	------------------	---------------------	------------------

Distribution of Funds			
Consolidation of Separate Programs	HUD currently funds three main competitive homelessness programs, the Supportive Housing Program, Shelter Plus Care, Moderate Rehabilitation/Single Room Occupancy	Consolidates separate HUD homeless assistance programs into a single program, the “Continuum of Care Program.”	Consolidates separate HUD homeless assistance programs into a single program, the “Community Homeless Assistance Program.”
Applicants	While not in federal statute, HUD has required the Continuum of Care process since 1995.	<p>HEARTH codifies the Continuum of Care process.</p> <p>Sec. 402 requires that a “Collaborative Applicant” be established for geographic area to fulfill a number of duties including coordinating and submitting the application, determining compliance, and establishing priorities.</p> <p>HEARTH permits the Secretary to designate another entity as a collaborative applicant or permit eligible entities to apply directly for grants if the locally-established collaborative applicant does not meet requirements of the law.</p>	<p>CPEHA codifies the Continuum of Care process.</p> <p>Sec. 402 requires that a “Collaborative Applicant” be established for geographic area to fulfill a number of duties including coordinating and submitting the application, determining compliance, and establishing priorities.</p> <p>CPEHA permits the Secretary to designate another entity as a collaborative applicant or permit eligible entities to apply directly for grants if the locally-established collaborative applicant does not meet requirements of the law.</p>
Administrative Fees for Continuum of Care Coordination	Fees for coordinating the application for the Continuum of Care are not currently an eligible use of McKinney funds	HEARTH would allow communities to use up to 3% of McKinney Funds to cover expenses related to coordinating the Continuum of Care process.	CPEHA would allow up to 7% of funds for administrative costs.

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
Improvements to HUD's response time	<p>HUD does not appear to be under any time constraints under current law. 24 CFR § 583.200 states that "When funds are made available for assistance, HUD will publish a notice of funding availability (NOFA) in the FEDERAL REGISTER, in accordance with the requirements of 24 CFR part 4... HUD will review and screen applications in accordance with the requirements in section 426 of the McKinney Act (42 U.S.C. 11386) and the guidelines, rating criteria, and procedures published in the NOFA." 42 U.S.C. 11386 does not contain any time constraints related to the publication of the NOFA nor the notification and distribution of awards.</p> <p>The FY2007 NOFA states that "the FY 2007 HUD Appropriations Act requires HUD to obligate all CoC homeless assistance funds by September 30, 2009."¹³</p>	<p>Requires Secretary to issue NOFA within 3 months of annual appropriation.</p> <p>Funding awards must be announced within 5 months of application due date.</p> <p>Project sponsors must meet requirements for obligation within 9 months of award announcement (24 months for acquisition, construction, or rehabilitation).</p> <p>Funds must be obligated within 45 days of project sponsor meeting requirements.</p>	<p>NOFA must be released within 3 months of appropriations enactment.</p> <p>Funding awards must be announced within 5 months of application due date.</p> <p>Project sponsors must meet requirements for obligation within 9 months of award announcement (24 months for acquisition, construction, or rehabilitation).</p> <p>Funds must be obligated within 45 days of project sponsor meeting requirements.</p>
Matching Requirement	The Supportive Housing Program, by statute can pay no more than 75% of the total operating budget for supportive housing so project sponsors must provide at least a 25% cash match of the total annual operating costs. ¹⁴	The 25% match would apply equally for all activities. In-kind activities provided by an organization that is not the project sponsor would count if supported by a memorandum of understanding.	The 25% match would apply equally for all activities. In-kind activities provided by an organization that is not the project sponsor would count if supported by a memorandum of understanding.
Incentives for High Performing Communities	N/A	HEARTH allows for incentives and added flexibility for communities that provides sufficient data that they have reduced homelessness.	CPEHA allows for incentives and added flexibility for communities that document rapid re-housing success.

¹³ HUD 2007 Notice of Funding Availability, 72 FR 11745

¹⁴ HUD 2007 Notice of Funding Availability, 72 FR 11746

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
--------	------------------	---------------------	------------------

<i>Interagency Council on Homelessness</i>			
---	--	--	--

<p>Interagency Council on Homelessness (ICH)</p>	<p>The McKinney-Vento Act established the Interagency Council on the Homeless (ICH) in order to perform a number of duties related to monitoring, evaluating, and recommending improvements in programs and activities to assist homeless individuals conducted by Federal agencies, State and local governments, and private voluntary organizations. For a number of years, the ICH was inactive. The ICH was re-activated by President George W. Bush in 2001.</p>	<p>Establishes the mission of ICH to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the United States.</p> <p>HEARTH adds the Social Security Commissioner, Attorney General, OMB Director, the Director of the Office of Faith-Based and Community Initiatives, and the Director of USA FreedomCorps to ICH. The ICH would now meet four times annually, as opposed to once. Adds new duties to ICH including the Development of a National Strategic Plan to End Homelessness, encouraging the development of state ICH and the formulation of multi-year state, county, and city plans to end homelessness.</p> <p>Doubles the current authorization to \$3 million in annual appropriations.</p>	<p>Establishes the mission of ICH to develop and coordinate the implementation of a national strategy to end homelessness while maximizing the effectiveness of the Federal government in contributing to an end to homelessness in the United States. Requires the Council to meet bi-annually.</p> <p>CPEHA adds the Social Security Commissioner, Attorney General, and OMB Director to ICH. Requires ICH to appoint between 5 and 10 regional representatives. Adds new duties to ICH including the Development of a National Strategic Plan to End Homelessness, encouraging the development of state ICH and the formulation of multi-year state, county, and city plans to end homelessness.</p> <p>Doubles the current authorization to \$3 million in annual appropriations.</p>
--	---	---	---

<i>Prevention</i>			
--------------------------	--	--	--

<p>Use of ESG Funds for Prevention</p>	<p>“By law prevention activities are ineligible activities in the three programs for which funds are awarded in this competition but are eligible for funding under the</p>	<p>Subtitle B re-designates the Emergency Shelter Grants Program (ESG) as the “Emergency Solutions Grants Program.” The new ESG program would receive 20% of homeless assistance funding.</p>	<p>Subtitle B re-designates the Emergency Shelter Grants Program (ESG) as the “Emergency Solutions Grants Program.” The new ESG program would receive 20% of</p>
--	---	---	--

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
Use of ESG Funds for Prevention (cont.)	Emergency Shelter block grant program.” ¹⁵ Current law allows only 30% of ESG funds to be used for prevention activities.	<p>These funds can be used to create and maintain emergency shelters, supplement or complement existing community services such as family services for homeless youth, provide rental assistance and housing relocation or stabilization services.</p> <p>Two years after the enactment of HEARTH, not more than 60% of these funds can be used for emergency shelter activities.</p>	<p>homeless assistance funding.</p> <p>These funds can be used to create and maintain emergency shelters, supplement or complement existing community services such as family services for homeless youth, provide rental assistance and housing relocation or stabilization services.</p> <p>Two years after the enactment of CPEHA, not more than 60% of these funds can be used for emergency shelter activities.</p>
Prevention Title	N/A	HEARTH does not add a separate title for prevention. Twenty percent of McKinney funds are designated for The Emergency Solutions Grant Program. The funds can be used to prevent homelessness among those most at risk. Eligible activities include rental assistance, supportive services, housing relocation and stabilization services and utility assistance.	<p>Twenty percent of McKinney funds are designated for The Emergency Solutions Grant Program. The funds can be used to prevent homelessness among those most at risk. Eligible activities include rental assistance, supportive services, housing relocation and stabilization services and utility assistance. Eligible households will be considered at risk of homelessness if they:</p> <ol style="list-style-type: none"> 1) Have incomes below 20% of the median for the geographic area, adjusted for household size. 2) Have moved frequently due to economic hardship, have been notified that their right to occupy their current housing or living situation will be terminated, live in severely overcrowded housing, a hotel or motel, or otherwise live in housing that has characteristics associated with

¹⁵ HUD 2007 Notice of Funding Availability, 72 FR 11743
National Low Income Housing Coalition Housing Plus Services Committee

Policy	Current Practice	HEARTH H.R. 7221	CPEHA S. 1518
--------	------------------	---------------------	------------------

			<p>instability and increased risk of homelessness as determined by the Secretary.</p> <p>3) Have insufficient resources immediately available to attain housing stability.</p>
--	--	--	--

<i>Rural Homelessness</i>			
----------------------------------	--	--	--

<p>Rural Housing Homeless Assistance Program</p>	<p>Current law allows that the Secretary may make awards to assist programs providing direct emergency assistance to homeless individuals and families; provide prevention assistance to individuals and families at risk of becoming homeless; and assistance obtaining access to permanent housing and supportive services. <i>Funds were never appropriated for this purpose.</i></p>	<p>Subtitle G re-designates HUD’s Rural Homeless Housing Assistance Program as Subtitle D “Rural Housing Stability Assistance Program. The purpose of the program is to re-house or improve the housing situations of individuals who are homeless or in worst case housing situations, stabilize the housing of individuals in imminent danger of losing housing, and to improve the ability of the lowest-income residents of the community to afford stable housing. Allows rural areas to opt for a simplified application process. Eligible uses include prevention of homelessness, rental assistance, construction of transitional and permanent housing, and services.</p>	<p>Section 8 re-designates HUD’s Rural Homeless Housing Assistance Program as Subtitle D “Rural Housing Stability Assistance Program. The purpose of the program is to re-house or improve the housing situations of individuals who are homeless or in worst case housing situations, stabilize the housing of individuals in imminent danger of losing housing, and to improve the ability of the lowest-income residents of the community to afford stable housing. Allows rural areas to opt for a simplified application process. Eligible uses include prevention of homelessness, rental assistance, construction of transitional and permanent housing, and services.</p>
--	--	--	---