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July 9, 2019

Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Submitted electronically via: <http://www.regulations.gov>

Re: Department of Housing and Urban Development Docket No. FR-6124-P-01,
Proposed Rule: Housing and Community Development Act of 1980: Verification of
Eligible Status

Dear Sir/Madam,

The Local Health Plans of California (LHPC) writes to the federal Department of Housing and Urban Development (HUD) to provide comments in response to the HUD's proposed rule *Housing and Community Development Act of 1980: Verification of Eligible Status* (Docket No. FR-6124-P-01), which was published in the Federal Register on May 10, 2019. LHPC represents all 16 community-based, not-for-profit health plans that provide health coverage to over 7.5 million beneficiaries enrolled in California's Medicaid program, Medi-Cal. The local health plans provide critical health care services to low-income Californians and collectively operate a delivery system that is the largest community-based, not-for-profit, and publicly accountable in the nation. LHPC submits the comments herein to urge HUD to withdraw the proposed rule entirely, due to the harmful effects it will have on immigrant families and children.

Among the millions of Californians provided health care services by California's local plans are thousands of immigrant families and children. There is growing evidence that health is significantly influenced by factors such as housing, education, and access to healthy food. We are concerned that HUD's proposed rule to require verification of eligible immigration status of all individuals living in a household receiving housing assistance under a covered program would increase homelessness and housing instability, thereby jeopardizing the health and wellness of families and children. Children especially need a safe and healthy environment so that they may succeed in school and adulthood, yet this is the population most at-risk under the proposed rule.

Background. The proposed rule would require every member of a household that receives federal housing assistance to verify his or her legal immigration status for the household to receive any subsidy or assistance. Households that currently receive prorated assistance based on the number of verified citizens or eligible non-citizens (“mixed households”) in a household would no longer receive this assistance if even one member of their household does not affirmatively verify eligibility.

Tens of thousands of households will become at-risk of homelessness. Over 55,000 citizen children living in mixed households may face eviction and the possibility of homelessness as a result of the proposed rule.¹ California, along with the rest of the nation, is contending with a growing homelessness crisis. According to HUD’s 2018 Annual Homelessness Assessment report, on any given night, there are 129,972 individuals who are experiencing homelessness in California, representing 24% of the nation’s total homeless population.² While our state, counties, and cities have collectively dedicated billions of dollars to ameliorate this crisis, the growing cost of housing and rental vacancy rates that are at a 30-year low are significant challenges to overcome.³ Furthermore, the HUD analysis acknowledges that homelessness could be an impact of the rule, particularly in tight housing markets. In addition to a likely rise in homelessness, another unintended consequence of this rule may be increased costs associated with homelessness. These costs include providing housing in homeless shelters or temporary housing, increased medical costs, and other costs that are largely paid for through taxpayer dollars.

The rule disproportionately impacts children, the vast majority of whom are US citizens. HUD’s proposed rule would disproportionately impact California families and children, as the HUD analysis of the proposed rule states that 37% of the mixed families receiving housing assistance who would be impacted by this rule live in California.⁴ Additionally, the analysis notes that about 70% of mixed family households consist of eligible children and ineligible parents. Children who are US citizens or legal permanent residents eligible for assistance and who live in mixed households should have the same opportunity as all other American children to access public programs and supports for which they qualify. This rule will not only have an outsized impact on our most vulnerable population, children, it will also create additional disparities between children with immigrant parents and other low-income children.

The current rules ensure that ineligible family members do not receive housing assistance. Existing rules require that financial assistance to mixed households be prorated based on the number of eligible individuals in the family. HUD states that it believes prorated assistance provides a benefit to individuals without verified

¹ Wiltz, T. Housing Authorities Reel as HUD Singles Out Undocumented Immigrants. Pew Trusts. May 23, 2019. Accessed via: <https://www.pewtrusts.org/research-and-analysis/blogs/stateline/2019/05/23/public-housing-authorities-reel-as-hud-singles-out-immigrants>

² The 2018 Annual Homeless Assessment Report (AHAR) to Congress. U.S. Department of Housing and Urban Development. December 2018. Accessed via: <https://files.hudexchange.info/resources/documents/2018-AHAR-Part-1.pdf>

³Rental Vacancy Rates in California Are at 30-Year Low. Center on Budget and Policy Priorities. Accessed via: <https://www.cbpp.org/rental-vacancy-rates-in-california-are-at-30-year-low>

⁴Regulatory Impact Analysis: Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980. April 15, 2019. Accessed via: <https://nlihc.org/sites/default/files/2019-05/Noncitizen-RIA-Final-April-15-2019.pdf>

eligibility that conflicts with the underlying statute which outlines eligibility for federal housing assistance. However, the federal statute clearly establishes parameters for providing financial assistance to mixed households. The law states that any assistance offered to a household shall be prorated based if the eligibility of at least one member of the household has been affirmatively established and the ineligibility of one or more family members has not been affirmatively established.⁵ Given this clear direction in statute, HUD's argument that this practice is inconsistent with federal law is unconvincing.

The proposed rule does not increase the number of eligible individuals receiving housing assistance, it simply shifts the assistance to non-mixed households. Importantly, this rule will transfer available assistance from mixed households that are receiving assistance for eligible family members to non-mixed households where all members of the household are eligible. No additional eligible individuals will receive assistance under this rule. In addition to the detrimental impacts to the families and children who will lose assistance, HUD's analysis estimates that this transfer will result in increased costs because non-mixed households will include a greater number of individuals eligible for assistance and therefore have a higher subsidy. However, unless HUD's budget is increased to account for these higher costs, it will have to reduce the quantity and quality of assisted housing. HUD predicts this to be the most likely scenario. If this is in fact the outcome, fewer households will be served under the housing assistance program and public housing may see decreased maintenance and deterioration of the units.

California's local plans are dedicated to the health and wellness of the low-income children and adults we serve. Without access to safe and affordable housing existing health conditions are exacerbated, and long-term health outcomes suffer. For the reasons outlined in this letter, LHPC must oppose the proposed rule and requests that it be withdrawn.

Sincerely,



Linnea Koopmans
Director of Government Affairs

⁵ 42 US Code Section 1436a. Restriction on use of assisted housing by non-resident aliens. Accessed via: <https://www.law.cornell.edu/uscode/text/42/1436a>