



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

July 9, 2019

Re: HUD Docket No. FR-6124-P-01, RIN 2501-AD89 Comments in Response to Proposed Rulemaking: Housing and Community Development Act of 1980: Verification of Eligible Status

To: Benjamin S. Carson, Secretary of the U.S. Department of Housing and Urban Development

The Center for American Progress (“CAP”) welcomes the opportunity to submit comments regarding the proposed rulemaking: *Housing and Community Development Act of 1980: Verification of Eligible Status* as issued in the May 10, 2019, Federal Register (Docket No. FR-6124-P-01, RIM 2501-AD89). CAP is an independent, nonpartisan policy institute dedicated to improving the lives of Americans through bold, progressive ideas and action. As part of its core mission, CAP conducts research and develops policy ideas that help enhance the economic security of all Americans, boost their opportunities for advancement, and promote equality.

CAP is writing to oppose the U.S. Department of Housing and Urban Development’s (HUD) proposal to require the verification of immigration status of all recipients of HUD's public and other specified housing assistance -- including Section 8 Project Based Rental Assistance and Housing Choice Vouchers¹ -- who are under the age of 62. Mixed-status families consist of families with both members who are eligible and not eligible for federal housing assistance based on immigration status. Under current law, families in subsidized housing that include ineligible members are allowed to receive housing assistance as long as the subsidy is decreased to exclude any ineligible members.² If finalized, this proposed rule will require that federal housing assistance recipients have their immigration status screened through the Systematic Alien Verification for Entitlements Program (SAVE), administered by the Department of Homeland Security. Pending verification of eligible status, the proposed rule will make prorated assistance a temporary condition. Families with at least one member who is determined “ineligible” for federal housing assistance will be evicted from their subsidized homes after 18 months if not sooner. Families including any ineligible members will be faced with the harsh decision to split up or lose the housing subsidy in order to keep their families together. The proposed rule would also require U.S. citizens and elderly immigrants at or over the age of 62 currently receiving the

subsidy to submit documentation proving their citizenship and immigration status or risk losing the assistance altogether.

If implemented, the proposed rule will impact a large number of immigrants and citizens alike. Approximately 25,000 immigrant families currently receiving federal housing assistance include at least one ineligible member.³ These families are at risk of being evicted from their homes and becoming homeless. Most importantly, these families include more than 55,000 children who are either U.S. citizens or permanent residents.⁴ Furthermore, 95 percent of individuals in mixed-status families are people of color and 85 percent identify as Latinx.⁵ The rule will also affect over nine million U.S. citizens and 120,000 elderly immigrants who will be required to provide immigrant status documentation which, for many extremely low-income individuals, is very difficult to obtain in a timely fashion.

The proposed rule represents an outright attempt by the Trump Administration to target immigrant families by diminishing housing assistance for families with mixed-citizenship status. As discussed below, current law already prohibits HUD from providing rental assistance subsidies to undocumented immigrants. The proposed rule would unnecessarily penalize current eligible recipients, regardless of their immigration status. Therefore, the proposed rule should be rescinded.

The Administration claims that, if implemented, the proposed rule would cut down the long waitlists for federal housing assistance throughout the United States,⁶ and keep undocumented immigrants from receiving federal housing assistance.⁷

These claims are misleading for the following reasons:

1. HUD's concern for long waitlists does not represent a valid ground for finalizing the proposed rule. Millions of families throughout the nation are on waitlists for subsidized housing. The Public and Affordable Housing Research Corporation estimated that the last time national waitlist data were collected, approximately 1.6 million families were on waitlists for public housing and more than 2.7 million families were on waitlists for the Housing Choice Voucher program.⁸ If finalized, the proposed rule will exacerbate the waitlist problem because it will reduce the number of housing subsidies provided to households in need. In particular, subsidies will be taken away from current mixed-status families and transferred to families composed entirely of eligible members. HUD's own analysis indicates that, upon eliminating mixed-status families from federal rental assistance programs, the rule will result in the need to provide more funding to families comprised entirely of eligible members. Specifically, restricting subsidies to families in which all members are eligible would cost an additional \$193 million to \$227 million a year.⁹ In order to make up for the increased costs, and in light of already scarce funding resources due to federal budget cuts, HUD will have no other choice than to reduce the quality and quantity of assisted housing units, thus putting additional pressure on the already significant demand for federal housing assistance¹⁰ without moving any families off waitlists.

2. The Trump Administration claims that, if finalized, the proposed rule will curtail undocumented immigrants' participation in federal housing assistance programs. This claim also lacks merit, as existing law already prohibits HUD funds from benefiting the housing needs of undocumented immigrants. Moreover, being ineligible for housing assistance benefits based on immigration status does not equate to being an undocumented immigrant. Under current law, there are legal immigrants who are ineligible for housing assistance. These include those who are in the United States on a temporary employment or student visa.¹¹

The proposed rule, if finalized, would exacerbate the rental affordability crisis, poverty and the related homelessness problem. The nation is in the midst of a severe rental affordability crisis. Nearly half of the nation's renters spend more than 30 percent of their household income on housing costs, and approximately 11 million renters pay more than 50 percent of their income for housing and are severely burdened.¹² Moreover, for every 100 extremely low-income renters, only 37 rental units are affordable and available.¹³ If finalized, the proposed rule will exacerbate the rental affordability problem, rather than fixing it, as more families will be pushed into the private rental market where there is a shortage of 7 million affordable and available units for extremely low-income households. The rule would increase housing insecurity for extremely low-income immigrant and citizen families for whom subsidized housing represents the only opportunity to avoid homelessness, along with its costs and consequences. Housing affordability is an essential determinant of whether a family is able to achieve economic stability. Subsidized housing represents a critical tool for lifting extremely low-income families out of poverty. In 2017, housing assistance helped lift a total of 2.9 million people out of poverty.¹⁴ Moreover, an analysis by UnidosUS shows that federal rental assistance lifted 720,000 Latinx people out of poverty in 2015, including approximately 270,000 Latinx children.¹⁵ Additionally, the documentation verification requirements may deter private housing providers from participating in the Housing Choice Voucher program, thus worsening the affordable housing crisis.¹⁶ Solving the affordability crisis requires a completely different approach which includes: avoiding budget cuts for federal housing assistance programs, appropriating more funding for such programs, and making significant investments in the supply of affordable rental homes.¹⁷

The proposed rule represents one of the latest attempts by the Trump Administration to instill fear, confusion, and insecurity among immigrant families. Subsidized housing should not be weaponized to target, surveil, intimidate, and alienate struggling immigrant families. Housing policy should not be designed and implemented as part of a xenophobic agenda, but rather to make sure that everyone in the U.S. is able to exercise their right to a decent, affordable and safe home – a critical element for economic stability. Therefore, we urge HUD to withdraw the current proposal and, instead, advance proven policies that strengthen, rather than hinder, the ability of families with limited means to support themselves, regardless of their immigration status.

Thank you for the opportunity to submit comments on this proposed rulemaking.

Any questions regarding this comment letter or related issues should be directed to Michela Zonta at mzonta@americanprogress.org.

Sincerely,

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¹ Tanvi Misra and Kriston Capps, “Why HUD Wants to Restrict Assistance for Immigrants,” CityLab, April 19, 2019, available at <https://www.citylab.com/equity/2019/04/public-housing-rent-assistance-immigrant-families-hud-policy/587479/>.

² Federal Register, “FR-6124-P-01 Housing and Community Development Act of 1980: Verification of Eligible Status,” available at <https://www.regulations.gov/document?D=HUD-2019-0044-0001> (last accessed July 2019).

³ U.S. Department of Housing and Urban Development, “Regulatory Impact Analysis: Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980” (Washington: U.S. Department of Housing and Urban Development, 2019), available at <https://nlihc.org/sites/default/files/2019-05/Noncitizen-RIA-Final-April-15-2019.pdf>.

⁴ U.S. Department of Housing and Urban Development, “Regulatory Impact Analysis: Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980” (Washington: U.S. Department of Housing and Urban Development, 2019), available at <https://nlihc.org/sites/default/files/2019-05/Noncitizen-RIA-Final-April-15-2019.pdf>.

⁵ Alicia Mazzara, “Demographic Data Highlight Potential Harm of New Trump Proposal to Restrict Housing Assistance,” Center on Budget and Policy Priorities, July 1, 2019, available at https://www.cbpp.org/research/housing/demographic-data-highlight-potential-harm-of-new-trump-proposal-to-restrict-housing#_ftnref2.

⁶ Tanvi Misra and Kriston Capps, “Why HUD Wants to Restrict Assistance for Immigrants,” CityLab, April 19, 2019, available at <https://www.citylab.com/equity/2019/04/public-housing-rent-assistance-immigrant-families-hud-policy/587479/>.

⁷ Annie Karni and Michael Shear, “HUD Moves to Limit Public Housing Aid for Undocumented Immigrants,” *The New York Times*, April 17, 2019, available at <https://www.nytimes.com/2019/04/17/us/politics/hud-public-housing-immigrants.html>.

⁸ Public and Affordable Housing Research Corporation, “Housing Agency Waiting Lists and the Demand for Housing Assistance” (Cheshire, CT: 2016), available at <https://www.housingcenter.com/wp-content/uploads/2017/11/waiting-list-spotlight.pdf>.

⁹ Tracy Jan, “HUD says 55,000 children could be displaced under Trump plan to evict undocumented immigrants,” *The Washington Post*, May 10, 2019, available at https://www.washingtonpost.com/business/2019/05/10/hud-says-children-could-be-displaced-under-trump-plan-evict-undocumented-immigrants/?utm_term=.8a28e5fe7e34.

¹⁰ U.S. Department of Housing and Urban Development, “Regulatory Impact Analysis: Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980” (Washington: U.S. Department of Housing and Urban Development, 2019), available at <https://nlihc.org/sites/default/files/2019-05/Noncitizen-RIA-Final-April-15-2019.pdf>.

¹¹ Sonya Acosta and Karlo Ng, “Setting the Record Straight,” National Low Income Housing Coalition and National Housing Law Project, June 17, 2019, available at https://docs.wixstatic.com/ugd/d97bc4_8e8ed9ebf63749118ed69ddcf26fde1e.pdf.

¹² Joint Center for Housing Studies of Harvard University, “The State of the National’s Housing 2018” (Cambridge, MA: 2018), available at https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf.

¹³ Andrew Aurand and others, “The GAP: A Shortage of Affordable Homes” (Washington: National Low Income Housing Coalition, 2019), available at https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2019.pdf.

¹⁴ Liana Fox, “The Supplemental Poverty Measure: 2017” (Washington: U.S. Census Bureau, 2018), available at <https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60-265.pdf>.

¹⁵ UnidosUS, “Federal Programs Lift Millions of Latinos Out of Poverty” (Washington: 2017), available at http://publications.unidosus.org/bitstream/handle/123456789/1748/Fact_sheet_Anti-poverty_UnidosUS2.pdf?sequence=5&isAllowed=y.

¹⁶ National Low Income Housing Coalition and National Housing Law Project, “HUD’s Proposed Rule,” available at <https://www.keep-families-together.org/about> (last accessed July 2019).

¹⁷ Michela Zonta, “Homes for All” (Washington: Center for American Progress, 2018), available at <https://www.americanprogress.org/issues/economy/reports/2018/07/24/452645/homes-for-all/>.